

Neutral Citation Number: [2025] ECC Chd 3

IN THE CONSISTORY COURT OF THE DIOCESE OF CHELMSFORD

IN THE MATTER OF THE CHURCH OF ST. MARY WITH ST. EDWARD, LEYTON:

PETITION NO. 2023-091669

JUDGMENT

1. This is a petition for the re-ordering of the church of St. Mary with St. Edward, Leyton ("St. Mary's"). I am handing down a public judgment in relation to it for two reasons: first, because objections of some substance have been made to the grant of a Faculty; and secondly because this case raises some points of wider importance – in particular as to the extent of works which can appropriately be carried out under an Archdeacon's Licence for Temporary Minor Re-ordering (an "Archdeacon's Licence").

The Petition

2. The Petition in its current form dates from 23 February 2024. The original Petition (which did not include the Rector as a petitioner) was issued on 2 November 2023 – a date which is of some relevance for the reasons explained below.
3. The petitioners on the current version of the Petition are the Revd. Al Gordon, the Rector of St. Mary's; the Revd. Stephen Philip Opie, Associate Priest; and the churchwardens, Mr. Andrew Mathews and Dr. Vanessa Muirhead.
4. The works described in the Petition are "Re-ordering nave, including removal of pews and introduction of chairs". As I describe below, behind that short sentence is a rather more complex history.
5. In more detail, and as set out in the Petitioners' Statement of Significance and Need, the works proposed are as follows:
 - (i) Pews – The permanent removal of the pews and the relocation of the pew with the Mayor's mace holder to the chancel.
 - (ii) Pulpits (of which there are two, one with steps and one known locally as the "Horsebox Pulpit") – permanent removal.
 - (iii) Pew pillows – permanent removal.
 - (iv) Clerk's desk – permanent removal.
 - (v) Oak high back Boys' Brigade chair – Relocation to the Hickes memorial chapel.
 - (vi) Bishop's chair – Relocation to the Hickes memorial chapel.

- (vii) 2x priest chairs – Relocation to the Hickes memorial chapel.
 - (viii) 4x free-standing carved oak prayer desks – permanent removal.
 - (ix) Brass eagle lectern – The relocation of the brass eagle lectern to the chancel.
 - (x) Organ console – The permanent relocation of the organ console to the south aisle.
 - (xi) Hymn board – permanent removal.
 - (xii) Pillars – The addition of tension mounted brackets to hang TV screens.
 - (xiii) Nave - The addition of floor standing speakers, cable runs under the grates and short cable runs on the floor to the speakers. Addition of a movable sound desk.
 - (xiv) Chancel - Two stage boxes hidden behind the prayer desks in the chancel area.
 - (xv) Narthex - The addition of a movable relay speaker and service level cable run.
6. In addition, and following a request for clarification from me, the Petitioners have confirmed that they are seeking Faculty approval for new metal and wooden chairs of the Howe 40/4 design, 10% of which have arms for those who require them.
 7. The Diocesan Advisory Committee (“the DAC”) recommends the proposals for approval by the Court, as I describe in more detail below.
 8. The Petitioners approached a number of consultees in relation to these proposals. Replies were received, as I describe further below, from the Victorian Society and the Society for the Protection of Ancient Buildings (“SPAB”). The Victorian Society raised objections, but has not elected to become a Party Opponent. I have, however, taken its objections into account in reaching my decision.
 9. In addition, objections to the scheme proposed by the Petition were received from Ms Vanessa Danaher, a parishioner who is on the electoral roll of St. Mary’s. She has not elected to become a Party Opponent, but I have also taken her objections into account when reaching my decision.

St. Mary’s: a short description

10. St. Mary’s is located in the London suburb of Leyton, not far from Hackney Marshes. Although in an urban setting, it has a large churchyard. It is part of the SAINT group of churches, who describe their vision as being *“to bring hope to the people of East London”*. Its services are mostly informal and evangelical in their outlook. There is a high level of community engagement.

11. St. Mary's is a Grade II* listed church. There has been a church on the site since at least 1200. The current building was listed in 1954. The official list entry records that the tower and probably part of the north aisle wall are understood to date from 1658, and the west end of the chancel from 1693. It states that the church was mainly rebuilt in the 19th century, with further alterations in 1932. Specific reference is made to the building of the south aisle and vestry in 1882, to the baptistry of 1884 and to alterations in 1932. Further alterations took place following a fire in 1995. The list entry mentions some interior features, but no specific mention of the items to which the Petition relates.

The Archdeacon's Licence

12. The power to grant an Archdeacon's Licence is derived from Rule 8 of the Faculty Jurisdiction Rules 2015, as amended ("the Rules"). Specifically, Rule 8.2, which is headed "Temporary minor re-ordering", provides by sub-rule (1):

"On the application of the minister and the parochial church council an archdeacon may give a licence in Form 9 authorising a scheme of temporary minor re-ordering of a church (including its fixtures and fittings) for a specified period not exceeding 24 months."

13. Sub-rule 8.2(3) requires the Archdeacon to seek the advice of the DAC or such of its members as s/he thinks fit before giving a Licence. By sub-rule 8.2(4):

"The archdeacon must not give a licence unless satisfied that —

- (a) the scheme does not involve any material interference with or alteration to the fabric of the church or the carrying out of electrical works;*
- (b) it does not involve the disposal of any fixture or other article; and*
- (c) if the scheme involves moving any item —*
 - (i) it will be moved by suitably competent or qualified persons;*
 - (ii) it will be safely stored in a place approved by the archdeacon; and*
 - (iii) it can easily be reinstated."*

14. By sub-rule 8.2(5), the Archdeacon may give a Licence subject to such conditions as appear necessary. The period specified in the Licence may not be extended (sub-rule 8.2(9)). However, by sub-rule 8.2(10):

"If a petition for a faculty in respect of the scheme authorised by the licence is submitted to the court not less than 2 months before the expiry of the period specified in the licence, the scheme is deemed to continue to be authorised by the licence until the petition is determined by the court."

15. By Rule 8.3:
- “(1) On the expiry of the period specified in a licence given under rule 8.2—*
- (a) the archdeacon must send the minister a copy of Form 10 (which asks the minister to state whether a faculty has been applied for in respect of the scheme of temporary minor re-ordering and, if not, whether the position has been restored to that which existed before the scheme was implemented); and*
- (b) the minister must complete Form 10 and return it to the archdeacon within 14 days of receiving it.*
- (2) If on the expiry of the period specified in the licence the parish does not have a minister, paragraph (1) is to apply as if the references to the minister were references to the churchwardens of the parish.*
- (3) Save to the extent that it has been authorised by faculty, when a scheme of temporary minor re-ordering ceases to be authorised under rule 8.2 the archdeacon must take steps to ensure that the position is restored to that which existed before the scheme was implemented.”*
16. On 13 October 2021, the Archdeacon of West Ham granted an Archdeacon’s Licence in relation to St. Mary’s in the following terms:
- “The scheme of temporary minor re-ordering authorised by this licence comprises:*
- I am writing on behalf of the Rev’d Alexander Gordon and Rev’d Steve Opie of Leyton Parish Church. We are seeking a 12-month temporary license for the removal of the church pews in order to facilitate restoration of the parquet floor underneath, which is badly in need of repair and restoration, with many tiles loose and in need of cleaning. The pews will be removed by a competent contractor and stored in a suitable place until such time as the floor has been restored and they can be returned. The restoration and repair of the floor will also be undertaken by a competent specialist contractor.”*
17. It appears that the terms in which the Licence had been sought were simply cut and pasted into the Archdeacon’s Licence itself. There were no conditions attached. Nevertheless, I read the above as the parish telling the Archdeacon that the pews would be returned once the floor had been restored; and the Archdeacon’s Licence was granted on that basis.
18. Despite the reference above to a 12-month period, the Archdeacon’s Licence as granted was in fact for 24 months, the maximum period permitted by the Rules. It therefore expired on 13 October 2023.

Developments following the removal of the pews

19. The pews were indeed removed pursuant to the Archdeacon’s Licence, to enable the repair of the parquet floor. I am grateful to Mr. Malcolm Woods, the DAC Chair, who has supplied me with a comprehensive account of what happened thereafter. He

advises that in November 2022 – so within the period of validity of the Licence – he, and another member of the DAC, the distinguished architectural historian Dr. James Bettley FAS, visited St. Mary’s together with the Archdeacon. This was, presumably, at the instigation of the Petitioners: their Statement of Significance and Need (which was provided on 30 November 2023) states that *“Since temporarily removing the pews in April 2022 under a TMRO to facilitate necessary repairs to the parquet floor, the PCC requested that we explore what shape of ministry and mission might be possible if we were to request permanent removal of the pews”*.

20. In the course of their visit, the Archdeacon asked Mr. Woods and Dr. Bettley for their thoughts on the permanent removal of the nave furniture. Mr. Woods states that, using their professional judgment, he and Dr. Bettley inspected those items that were still in the church, including the pulpits, a sample of the pews and the clerk’s desk. They concluded that those items were of moderate significance. They encouraged the parish to carry out some research to try and establish the provenance of the items that might be removed and to then prepare their Statements of Need and Significance in preparation for making a Faculty application.
21. These matters appear to have rested for some time. It may be, I accept, that the parish and the Archdeacon assumed that, by consulting members of the DAC, they had “done enough”. Unfortunately, that was incorrect.

Whether the pews should have been removed, and whether they should have been reinstated

22. The Rules, as set out above, are clear. An Archdeacon’s Licence cannot be extended. The permission granted by it continues to have effect only if a petition for Faculty is submitted not less than 2 months before the expiry of the period specified in the Licence (in which case the scheme is deemed to continue to be authorised until the determination of the petition). In this case, the date by which a petition had to be submitted, if the scheme were to continue to be treated as authorised, was 13 August 2023. No petition was lodged within that time.
23. If no petition is lodged within the necessary time frame, the Archdeacon is obliged to take steps to ensure the position is restored to that which existed before the scheme was implemented. There is no wriggle-room. In that regard, I refer to (and respectfully adopt) the analysis of Chancellor Hill QC (as he then was) in Re Christ Church, Upper Armley [2017] ECC Lee 5, at [9], [11-12]:

“The simple point is this. The archdeacon has no power to extend the period specified in a licence: r 8.2(9). On the expiry of that period, the reordering ceases to be authorised, and the archdeacon must take steps to ensure that the pre-existing position is restored: r 8.3(3). There is only one exception to this, namely where the parish has submitted a petition for a faculty not less than two months before the expiry of the period specified in the licence: r 8.2(10). The rule is clear. Contrary to the arguments advanced at paragraphs in the email quoted at paragraph 7 above, the deadline is not the expiry of the licence, but two months earlier; and the trigger is submitting a petition to the court, not seeking the advice of the DAC...

Parishes should be disabused of the common misconception that that seeking advice from the DAC amounts to compliance with r 8.2(10). The prudent course, if it looks like a Notification of Advice will not be forthcoming from the DAC in sufficient time would be to submit a petition to the registry before the deadline with a request that proceedings be stayed pending receipt of the Notification. The Faculty Jurisdiction Rules 2015 make express provision for starting proceedings notwithstanding the absence of DAC advice: r 5.2(4), disapplying r 4.4(1). This may, however, require a paper application, outside the online faculty system. And if by indolence or misfortune the parish allows the deadline to pass, it could apply for an interim faculty under r 15.1 to authorise the continuance of the reordering scheme until such time as a petition for a full faculty is determined. Any such application will be determined on its merits, one factor being its promptness.

The situation in this case was not assisted by the retirement of the archdeacon and the appointment of an acting archdeacon pending the successor coming into office. During this period there was culpable neglect in the discharge of the archdeacon's statutory duty to make proper enquiry using Form 10 (r 8.3(1)) and to take steps to restore the church to the position which existed before the scheme was implemented (r 8.3(3)). I trust this case will act as a timely reminder to all archdeacons in this diocese and beyond of their duties of enforcement regarding licences for temporary minor reordering. They should keep a careful note of the date upon which all such licences expire. Newly appointed archdeacons (should any happen upon this judgment) would do well to rummage through their filing cabinets in search of any ticking time bombs inherited from their predecessor."

24. Here, no petition was issued within the relevant period. Thus the parish ought to have reinstated the pews; and the Archdeacon ought to have ensured that they did so.
25. I do also question whether the Archdeacon ought to have allowed the removal of the pews under a Licence at all. I note that in Re Alvaston, St. Michael and All Angels [2020] ECC Der 3, Bullimore, Ch. had to deal with a similar case, where all pews remaining in a church had been taken out, supposedly temporarily and during the installation of a new heating system, under an Archdeacon's Licence, and new chairs had been purchased. He said this (at [19], [31]):

"These significant changes have been effected by a series of limited steps without the normal stages for a permanent and radical re-ordering, DAC advice carefully complied with, and perhaps most significantly, Public Notices which would enable parishioners to indicate any objections, or resolution of the objections registered by Historic England or other amenity bodies. However exactly this state of affairs has come about, it is concerning, not least because it appears, whatever the reality may be, that the normal procedures and constraints for implementing such changes, have been at least circumvented....

...I have great difficulty in accepting that the Licence related to works that were both temporary and minor. Stripping out the remaining pews, was a major project, and standing back, could it convincingly be portrayed as temporary? ... any request to strip out all the original seating for some allegedly temporary purpose relating to replacement heating, should be viewed with more than a degree of suspicion. Any concern whether a request for a Licence under Rule 8 exceeds

the power to grant one, can be resolved by referring the Applicants to the Chancellor for the grant of an Interim Faculty under Part 15 of the Faculty Jurisdiction Rules 2015."

26. I make clear that I accept that there was no intention here on the part of either the Archdeacon or the Petitioners to take steps that were properly beyond the scope of an Archdeacon's Licence. However, I am not persuaded that the removal of all the pews could properly be described as either temporary or minor; and if that is so, the Licence ought not to have been granted in the terms in which it was.
27. There is also a serious question as to whether the removal of the pews involved a *"material interference with or alteration to the fabric of the church"* within sub-rule 8.2(4)(a) (compare Re All Saints, Maidstone [2015] Morag Ellis Comm. Gen. (Canterbury)). If it did, the Licence was not one which the Archdeacon could properly grant.
28. All that said, I recognise that this is water under the bridge: nonetheless, the above ought to stand as a warning to parishes, and indeed to Archdeacons. It is necessary for careful consideration to be given to whether any particular steps can properly be taken under an Archdeacon's Licence; and the time limits must be properly complied with. As Ch. Hill said in Upper Armley, *"Even the most understanding and benevolent of Chancellors is constrained by the law"*.

The law that applies to the determination of the Petition

29. Because St. Mary's is a listed building, it is necessary to apply the test laid down by the Court of Arches in Re St. Alkmund, Duffield [2013] Fam 158:

"1. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?

2. If the answer to question (1) is "no", the ordinary presumption in faculty proceedings "in favour of things as they stand" is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals... Questions 3, 4 and 5 do not arise.

3. If the answer to question (1) is "yes", how serious would the harm be?

4. How clear and convincing is the justification for carrying out the proposals?

5. Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building (see St Luke, Maidstone at p.8), will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade I or 2, where serious harm should only exceptionally be allowed."*

30. I consider the individual items that are the subject of the Petition below, by reference to the Duffield test. But before I do so, I say a little more about the justifications advanced for the proposals by the Petitioners, the position taken by the consultees, and the objections raised by Ms Danaher.

The justification for the proposals

31. The Petitioners provided, with their original application, a combined Statement of Significance and Need.
32. The Statement of Significance identified certain matters the subject of the Petition as being of “low to moderate significance – local value”: the pews, the Bishop’s chair, the priest’s chairs, the Boys’ Brigade chair, the organ console and the lectern. The prayer desks, the hymn boards, the pulpits and the clerk’s desk were said to be of low significance. I set out more details below in the discussion of the individual items.
33. The Statement of Significance summarises the justification for the proposals as follows:

“The primary need is to create an open, accessible and flexible space within the nave to support midweek, as well as Sunday, mission and ministry. This will allow us to address a number of interrelated needs within the local community whilst continuing to provide an aesthetically sensitive and beautiful worship space, that is accessible for all, and caters to a variety of traditions and styles, for Sunday services and occasional offices.”

34. The Petitioners point to the experience over the last few years, since the removal of the pews; they say that it has enabled them to meet the needs of the local community in a way that they could not do so before. They point, in particular, to the successful “Hey Baby” toddler group, which is now being held in the nave and which provides a valued resource for local families. They also refer to their “Lighthouse Lunch”, a sit-down meal for up to 30 homeless, vulnerable or isolated people, which can now be served in the nave. They say that it would not be possible to continue these activities in their current form if they were required to reinstate the pews. Although the church has a hall, it is a 5 to 10 minute walk away, and is used (on a paying basis) by a children’s nursery during the week.
35. In December 2023, the Petitioners submitted a report from their church architect, Sybil Thomas of Kay Pilsbury Thomas Architects. She expressed the view that all the items that the Petitioners wished to remove from St. Mary’s are of “minimal significance”, and that any harm would be amply balanced by the new and diverse community uses that the adaptations would bring to the space.

The statutory consultees

36. The Victorian Society were first consulted before the Petition was submitted, and responded on 31 August 2023. They sought more information about the proposals, and said that they were treating the matter as “on hold” until that information was received. Mr. James Hughes of the Victorian Society stated in his message that *“the wholesale removal of historic seating schemes under the auspices of an archdeacon’s licence represents a misuse of that authority and is simply not appropriate”*. It will be apparent from the earlier paragraphs of this judgment that I have considerable sympathy with that view.

37. The Society for the Protection of Ancient Buildings indicated on 8 November 2023 that it was content to defer to the views of the DAC and the Victorian Society.
38. It appears that Historic England and Historic Buildings and Places were also consulted, but that they did not respond.
39. In the meantime, the Petitioners had in early September 2023 informed the Victorian Society that further details of the proposals had been uploaded to the Online Faculty System. In November 2023, the Petitioners chased the Victorian Society for any comments that they might have, making clear that the Petition had been issued. No response was received.
40. On 14 February 2024, the DAC issued a Notification of Advice, recommending the proposals for approval by the Court.
41. On 19 February 2024, Mr. Hughes of the Victorian Society wrote to the DAC inquiring as to the progress of the Petition. He indicated that he understood that Historic Buildings and Places were seeking to organise a site visit and said that he would be keen to join.
42. That message was forwarded to the Petitioners by the late Miss Melanie Tucker, then the Registry Clerk, with characteristic diligence. She suggested that it appeared that the statutory consultations were ongoing. The Petitioners, in response, pointed out that the Victorian Society had not replied to earlier messages, and said that, *"As far as I am concerned the consultation period is now closed. In fact, we have given them two opportunities to provide their input and they have not done so"*. Whilst the delay in responding by the Victorian Society was unfortunate, it might be said that the Petitioners' stance was a little unfair in circumstances where they had themselves failed to comply with the Rules in significant respects, as explained above.
43. The matter was at this point referred to me for consideration. On 12 March 2024, the Registry wrote, at my direction, to the Petitioners, forwarding a number of questions and concerns. In particular, I said:
- "I appreciate that it is frustrating that Mr Hughes failed to reply to previous messages, but I am afraid that, given the listed status of the building and the need to apply the Duffield criteria, "too late" is not really an answer. Can I suggest that the parish tries once more to engage with the Victorian Society - perhaps by pointing out to Mr Hughes that a decision now needs to be made quickly, and perhaps by sending to him the helpful letter from the church architect which explains why she considers that the removal of some of the furnishings is acceptable?"*
44. That led to further engagement by the Petitioners with the Victorian Society, who were not satisfied with the additional information received. On 18 March 2024, Mr. Hughes wrote to register the Society's objection to the proposals. I do not set out his message in full; the key points were as follows:

- (i) Neither the significance of the pews nor their contribution to the church building, nor the impact of their removal, had been satisfactorily addressed. The architect's report was said to be "unconvincing".
- (ii) The need for the wholesale removal of the pews was said to be unconvincing, and the Society suggested that the parish had not seriously explored other solutions.
- (iii) The removal of the pulpits, pews and clergy desks would *"effect a visual transformation and a coarsening of the internal character of the building, and would undoubtedly harm its significance as one of historic and architectural interest"*.
- (iv) They remained concerned that the Licence had been used to remove the pews in their entirety.

Ms Danaher's objection

- 45. Public Notices were displayed on 18 February 2024. On 25 March 2024, Ms Danaher's email of objection was received by the Registry. Although this was slightly outside the prescribed period, I nonetheless consider it appropriate to take account of her objection.
- 46. Ms Danaher has been a member of St. Mary's congregation, on and off, since 1975, and is on the electoral roll. She objects to the proposed changes wholesale. Again, I do not set out her objection in full, but her principal reasons for opposing the Petition are as follows. (I omit reference to parts of Ms Danaher's email which express dissatisfaction with the current worship style at St. Mary's, as I do not consider those comments relevant to my decision in this matter.)
 - (i) She is concerned that the removal of the pews and pew pillows means that members of the congregation cannot kneel during services.
 - (ii) She disagrees with the Petitioners' assessment of the significance of the pews and pulpits. She considers that if the latter are left against the walls of the nave, they will not be in the way (which the Petitioners suggest).
 - (iii) She does not believe that the reinstatement of the pews would give rise to significant accessibility issues, as compared with the use of chairs.
 - (iv) She believes that the items which it is proposed be relocated to the Hicks Chapel would effectively be "lost", because that space is already cluttered.
 - (v) She disputes that the open space left by the removal of the pews is being, or could be, used to the extent that the Petitioners suggest. She also suggests that the parish hall could be used for Hey Baby, the Lighthouse Lunch and other events.

- (vi) She expresses health and safety concerns with regard to aspects of the proposals.

The Petitioners' response

47. The Petitioners responded to these objections by a letter from the Associate Priest dated 6 May 2024. In summary, the principal points made were as follows:

- (i) Further details were provided in relation to "Hey Baby" and the "Lighthouse Lunch". It was emphasised that these projects have had a tremendous impact on the community, with attendees at "Hey Baby" describing it as a lifeline, and that they could not continue in their current form if the pews were to be reinstated.
- (ii) It was suggested, in response to the Victorian Society's objections, that *"if the Chancellor believes it would be helpful, we could commission an independent historical recording from Barry Hillman-Crouch MStPA DipFA, to speak to the disagreements around dating and significance of the pews"*.
- (iii) It was suggested that two of the half-width pews could be relocated to the balcony.
- (iv) It was pointed out that the original chancel furnishings are being maintained in their entirety, which to some extent mitigates the impact of the loss of the nave furnishings.
- (v) As regards the concern that the loss of the pews and pew cushions means that parishioners cannot kneel, it was pointed out that the chairs can be spaced to allow for kneeling, and that some kneelers can be retained for those who wish to use them.
- (vi) It was clarified that the pulpits were not in their original positions in any event, and confirmed that they are not safe for use.
- (vii) As regards the concerns over space in the Hicks Chapel, it was clarified that the removal of the existing nave furniture would allow chairs and equipment to be stored in its place, thus enabling the de-cluttering of the Chapel and its return to a space for prayer and reflection.
- (viii) Clarification was provided in relation to the health and safety concerns expressed.
- (ix) As regards the use of the hall, it was explained that the PCC had decided that it would not be right to require the nursery to leave the hall. The advantages from a community engagement perspective of holding events in the church building were emphasised, and it was pointed out that the walk along a busy road from the hall to the church makes it unsatisfactory for many purposes.

My directions of 1 July 2024, and the steps taken thereafter

48. In the light of the above exchanges, I did not consider that it would be appropriate for me to determine the Petition without further information. I therefore issued written directions, on 1 July 2024, in the following terms:

“1. I remain of the view that the removal of the pews en masse ought not to have been done under an Archdeacon’s Licence. Further, the intention of the Licence was clearly that the pews would be replaced after the floor repair, and this has not been done.

2. That said, there seems no point in now reinstating the pews unless I do not determine the petition in favour of the Petitioners.

3. I have considered carefully the objections from the Victorian Society and Ms Daneher.

4. Whilst the Petitioners have answered some of the points raised, there is a clear dispute as to the importance of the pews and other furniture which are the subject of the Petition. I take on board the fact that the objections could, and perhaps should, have been made earlier in the process (but one could equally say, as I have above, that the Petitioners should have reinstated the pews after the floor repairs).

5. It is difficult for me to resolve the disputes on the material currently before me. I note, for instance, that the Petitioners and the Victorian Society do not seem even to agree as to the wood from which the pews are constructed.

6. I note that the Petitioners have suggested commissioning an independent report from Mr Hillman-Crouch as to the provenance and significance of the pews and other furniture sought to be removed. This strikes me as a sensible and constructive suggestion. If the Petitioners remain content to do this, I suggest that they put that report in hand.

7. The report, when received, should be forwarded to the Victorian Society who should be given an opportunity to comment. If the pews are, in fact, discovered to be Georgian, it may be necessary also (as James Hughes suggests) to consult the Georgian Group.

8. Once any further comment has been received, I am likely to want to refer the matter back to the DAC for further consideration. It is clear that, when they gave their Notification of Advice, they had not considered the Victorian Society’s objection.

9. Thereafter, I will proceed to determine the Petition.”

49. On 22 January 2025, the Petitioners forwarded Mr. Hillman-Crouch’s report. This provided clearer photographs and a detailed physical description of the pews and of the other items proposed for removal.

50. That report was sent to the Victorian Society, who expressed concerns that it was not accurate. For example, Mr. Hillman-Crouch had suggested that the prayer desks and

one of the pulpits dated from 1822, whereas the Victorian Society's view was that they were rather later. The Society maintained their opinion that *"This is a highly listed church, and the proposals would result in considerable loss of historic fabric and impact on the special character and interest of the building. We remain unconvinced that all possible options have been explored, especially those that could mitigate harm to the significance of the building"*.

51. On 4 June 2025, the matter was again put before me for determination. In the interim, the following further events had taken place:

- (i) Dr. James Bettley FSA, a member of the DAC, carried out further research on the pews and other items of which removal is sought, and prepared a report for the benefit of the DAC and for me. Dr. Bettley observes in his report that, *"It is clear from the Statement of Significance and the architect's report that the history of the furnishings was poorly understood by the PCC, and the significance of many items was deemed low on the basis of their current condition and the fact they were not needed for the current worship or mission of the church"*. He also indicates that parts of Mr. Hillman-Crouch's report cannot possibly be accurate. In particular, he is satisfied, on the basis of an article in the Chelmsford Chronicle in December 1853, that the pews and pulpits are of that date.
- (ii) The DAC met on 1 April 2025, considered all the material before it, and (again) recommended the proposals for approval by the Court.
- (iii) The DAC Chair, Mr. Malcolm Woods, wrote to me setting out, very helpfully, how the DAC had come to its decision. In summary, the Committee had accepted the advice of Mr. Woods and Dr. Bettley that the pews and other items sought to be removed were of moderate significance only; that their removal would harm the significance of the church partly because of the status of the items themselves and partly because of the change in the building's internal appearance, but that the harm would be less than substantial; and that the additional activities enabled by the removal of those items firmly outweighed that less than substantial harm.

My decision on the items that are the subject of the Petition

52. Against that – perhaps excessively lengthy – background, I turn now to consider the individual items the subject of the Petition.

The pews and pew pillows, and their replacement with chairs

53. As will be apparent from the earlier parts of this judgment, it is the removal of the pews that is the most controversial aspect of the Petition.

54. I accept Dr. Bettley's opinion that the pews dated from 1853, when the original box pews were removed. I have seen no evidence that the pews can be attributed to any particular architect. The Hillman-Crouch report, though it cannot be supported in all

respects, does demonstrate that the pews have been substantially altered over the years, with drill-holes, battens added, etc.

55. I am satisfied, on the materials before me, that the pews are of moderate significance at best. However, I accept that the removal of the nave pews in their entirety results in some harm to the historic significance of St. Mary's, largely because of the changed appearance of the interior.
56. Nonetheless, I consider that that harm, which, like the DAC, I would assess as less than substantial, is outweighed by the benefits that are being realised, and will continue to be realised, by the removal of the pews. The use of the nave for the "Hey Baby" and "Lighthouse Lunch" projects is an important part of the church's mission and ministry. I do not consider that the Petitioners' statements about those projects and their level of success are exaggerated, contrary to Ms Daneher's suggestion. They strengthen links between church and community and enable the people of St. Mary's to provide an effective ministry to the vulnerable and those in need of support. I accept the Petitioners' submission that if the pews were required to be reinstated, it would not be possible to continue with those projects, at least other than by scaling them back significantly or relocating them to the church hall. I consider that that would be a retrograde step. I also accept that the removal of the pews enables the church to experiment with more flexible worship styles. I do not agree that using chairs increases accessibility problems, as Ms Danaher suggests; the point about having chairs instead of pews is that they can be moved.
57. I also accept the Petitioners' submissions that it would be inappropriate to require the nursery that is currently using the hall to move elsewhere; I also agree that welcoming the community into the church for these events is preferable to using a hall that is not immediately adjacent to the church building.
58. I agree that the retention of the chancel furnishings does, albeit to a limited extent, mitigate the impact of the loss of the nave pews.
59. I would add that, having seen "before and after" photographs of St. Mary's, I can say that the nave without the pews is an impressive space. It is bright and attractive.
60. I am therefore content to authorise the permanent removal of the pews. They should be disposed of to another church if that is possible; if it is not, they can be sold or destroyed since, as I have found, they are of limited intrinsic value.
61. That necessarily means that the pew cushions can also be disposed of. There is no serious suggestion that they are of any value without the pews.
62. None of the consultees has raised any objection with regard to the choice of chairs. The design selected appears to me to be entirely appropriate and is approved.
63. I do, however, impose the following conditions with regard to the pews:

- (i) The Petitioners should, as they have offered to do, retain two of the half-width pews and relocate them to the balcony.
- (ii) The pew with the Mayor's mace holder should be relocated to the chancel.
- (iii) 10% of the chairs that replace the pews should have arms.
- (iv) The church should retain a store of kneelers for those who wish to kneel during worship.

Pulpits

- 64. The so-called Horsebox Pulpit is, Dr Bettley and Mr. Hillman-Crouch agree, constructed of pieces of salvaged furniture. It is difficult to accord it any great significance. I am persuaded its removal impacts little on the historic character of the building, and it is no longer in use. I am content for it to be removed.
- 65. The other pulpit, which is of oak and has steps leading to it (said by the parish to be unsafe) is another matter. The Victorian Society describe it as "*thoroughbred Gothic revival work of the high Victorian period*". The DAC say that it is "*of no great sophistication*" and this may be so; nonetheless, it is not without interest. The reading desk attached to the pulpit has a decorative panel with a text in Greek from John 12:21.
- 66. No particular justification has been given for the removal of the pulpit, save that the pulpits are said to "dominate" the nave and are "without purpose". However, photographs of the nave in use for activities do not suggest that this pulpit is "dominant".
- 67. I consider that the disposal of this particular pulpit would have some moderate impact on the historic character of the church and that no sufficiently counterbalancing need for its disposal has been demonstrated. I do not, therefore, permit the parish to dispose of it. Fashions in worship change, and I do not consider that it can be said that this item will *never* be without purpose – and it is of some historic interest and importance.
- 68. If the Petitioners wish to resite this pulpit or to have it fixed to the wall, or to carry out repairs, they should consult further with the DAC.

Clerk's desk

- 69. The clerk's desk, though older, appears to be a somewhat workaday object of no great sophistication. Dr. Bettley assesses it to be of moderate interest only. On balance, I am inclined to consider that its removal will have little impact on the church's historic significance.
- 70. However, and as both Dr. Bettley and the Victorian Society have pointed out, since it is now clear that the clerk's desk dates from 1822, the Georgian Society ought to be consulted in relation to its proposed removal. They have not been. I therefore direct

that, before any steps are taken to remove the clerk's desk, the Georgian Society must be given an opportunity to comment. If they object to the removal, the matter will revert to me for determination.

Prayer desks

71. The free-standing prayer desks are simple and (as Mr. Hillman-Crouch observes) nicely made. However, they are agreed to be mass-produced items; there is no reason to suppose that they were bespoke to this church. I consider them to be of low significance, and accept that they do not serve the needs of the present congregation. I am content for these to be removed. They should be disposed of sensitively.

Items sought to be relocated to the Hickes memorial chapel: the Boys' Brigade chair, the Bishop's chair and the priest chairs

72. These are free-standing items and their removal is not sought. Ms Danaher objects to their relocation to the Hickes memorial chapel, but I accept the Petitioners' response in this regard. If the chapel is cleared of other items, these items can be sensibly relocated there, and are more likely to be appreciated in that setting.

Relocation of brass eagle lectern and organ console

73. The relocation of the brass eagle lectern to the chancel appears to be uncontroversial and is allowed. The same is true of the relocation of the organ console, which is also allowed.

Removal of hymn board

74. The hymn board appears to be of no particular significance. It is no longer used by the worshipping community. Its removal is allowed.

Sound/light/audiovisual system and associated changes

75. There has been no serious objection to the proposed sound and light system and associated changes, the groundwork for which was carried out when the floor was repaired. These changes include the addition of brackets to the pillars; the speakers and cable runs in the nave and narthex; and the addition of the sound desk.
76. I am satisfied that these changes will have only a limited impact on the historic character of the building, primarily because they are removable and reversible. I am also satisfied that the proposals, when implemented, will improve the health and safety situation, because most of the cabling will not be above the floor and will not, therefore, be a trip hazard.
77. I impose the following conditions, which are standard for this Diocese, in relation to these aspects of the proposals:

- (i) The electrical installation must comply with the IEE Wiring Regulations (18th edition 2018) and the best practice set out in the Churchcare Guidance Note on Electrical Wiring Installations in Churches.
- (ii) All exposed wiring must match, or be painted to match, the surface to which it is fixed (as part of the contractor's installation).

Stage boxes in the chancel

78. These will be out of sight when not in use. I allow them.

Philippa Hopkins K.C.
Chancellor
20 October 2025