



***Faculty** – Grade I listed, mid-C 15<sup>th</sup>, rural church (restored by John Loughborough Pearson in 1868-9) – Reordering of north transept, to include a servery, toilet, and heritage space – DAC not objecting to the proposals – The Society for the Protection of Ancient Buildings raising objections, particularly to the removal of pews – No-one choosing to become a party opponent so faculty application formally unopposed – Whether proposals causing harm to significance of listed church building – Whether any such harm outweighed by the benefits of the proposals – Faculty granted subject to extensive conditions*

**Application Ref: 2020-054879**

**IN THE CONSISTORY COURT**  
**OF THE DIOCESE OF OXFORD**

Date: Sunday, 11 January 2026

**Before:**

**THE WORSHIPFUL CHANCELLOR HODGE KC**

**In the matter of:**

**St Kenelm, Minster Lovell**

**THE PETITION OF:**

**Brenda Bennett** (Churchwarden and Treasurer)

**The Rt Hon Jack Straw** (PCC Member) and

**Judith Warwick** (Churchwarden and Secretary)

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

Objections were received to this petition from The Society for the Protection of Ancient Buildings but they did not choose to become a party opponent

The following cases are referred to in the Judgment:

*Re Jesus College, Cambridge* [2022] ECC Ely 2

*Re Holy Trinity, Clapham* [2022] ECC Swk 4, (2023) 25 Ecc LJ 276

*Re Holy Trinity, Sunningdale* [2026] ECC Oxf 1

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

*Re St Laurence, Combe* [2022] ECC Oxf 5

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

*Re St Mary, Headington* [2025] ECC Oxf 5

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

*Re St Stephen, Redditch* [2025] ECC Wor 2

## JUDGMENT

### Introduction and background

1. The village of Minster Lovell lies about 2 ½ miles to the north-west of Witney, immediately to the north of the A40, in the Archdeaconry of Dorchester. The place name is thought to derive from the Anglo-Saxon minister that stood on the site of the present, Grade I listed church of St Kenelm, and the name of the lords of the manor from the 12<sup>th</sup> to the late 15<sup>th</sup> centuries, when the estates of Francis Lovell, the 9<sup>th</sup> Baron and a prominent Yorkist, were confiscated by the Crown after the defeat of Richard III at the Battle of Bosworth. Many people visit the church when they view the ruins of the neighbouring Minster Lovell Hall, now in the care of English Heritage, which lies immediately to the south-east of the church, in a memorable setting amongst trees beside the northern bank of the River Windrush. The church and the site of the Hall lie within the Minster Lovell Conservation Area. The churchyard affords the only access to the ruins of the Hall, which results in a substantial footfall. The settings of these two heritage assets are strongly linked. Overall, the church building and the wider site are of high significance.

2. This is an online faculty petition dated 11 August 2025. At present the church of St Kenelm, Minster Lovell does not have an incumbent minister so the petition is brought by the two churchwardens, Brenda Bennett and Judith Warwick (who also serve as the PCC Treasurer and Secretary respectively) and a third member of the PCC, the Rt Hon Jack Straw. The works and other proposals for which a faculty is sought are described in the petition, and the Notification of Advice (the **NOA**) issued by the Diocesan Advisory Committee (the **DAC**), in the following terms:

*Replacement of 21<sup>st</sup> century timber screen enclosure in the North Transept and replacement to provide a new accessible WC and servery. Works include the removal of the five north*

*transept pews and their adaptation to allow two pews to remain as freestanding pews. Accessibility upgrades to the pew platform comprising the provision of a ramp, removeable handrails, and manifestation at change in level between tile and boarded floor areas.*

*Relocation of Memorial Flag and carved timber war memorial from the east wall of the North Transept to the South Transept (precise location to be determined).*

*Externally works will comprise a new footpath to the south of the church to provide a new accessible entrance and improvements to ground drainage.*

3. The works are described as being undertaken in accordance with a number of drawings, which date from March 2017 to April 2025, and a specification and schedule of works for the reordering of the Crawley Aisle (or North Transept) dated 23 April 2025. All of these have been drawn up by Arnold Bartosch Ltd (Chartered Surveyors and Historic Buildings Consultants). Minor revisions to certain of these drawings, and to the specification and schedule of works, have since been made (during September 2025) in order to address various matters raised in the NOA. The parish have also responded separately in writing to these matters, and they have uploaded their response to the supporting documents section of the Online Faculty System (the **OFS**). According to the petition, it is anticipated that the proposed works will start in the Spring of 2027 (subject to raising the necessary further funding required to complete this project), and that they will take some 16 weeks to complete.

#### The church

4. The church was first listed as long ago as 12 September 1955. The listing entry reads:

*Church. Mid C15, incorporating some earlier work. Coursed stone rubble; stone slate roofs, roof of tower not visible. 2-bay chancel, central tower, 2-bay transepts and 3-bay nave. North side: gabled stone porch to left of nave with 2-centre archway on columns. C19 plank door to 4-centre-arched doorway with moulded surround and plain spandrels. 4-centre-arched niche above door. Image niche at angle to left of door with cusped 4-centre arch. Braced collar-truss roof to porch. 2-light Rectilinear-tracery window to right of nave. 3-light Rectilinear-tracery windows to left and right of chancel, and to north end of north transept. 5-light Rectilinear-tracery window to east end. South side: blocked 2-centre-arched doorway with hood mould to right of nave. 4-centre-arched doorway with C19 plank door to centre of chancel. 2-light Rectilinear-tracery window to left of nave. 3-light Rectilinear-tracery windows to left and right of chancel and to south end of south transept. West end: blocked doorway to centre with 2-centre-arched surround with hood mould having damaged carved end-stops. 5-light Rectilinear-tracery window above. Tower: 2-light Rectilinear-tracery louvred opening to each side of bell chamber; battlemented parapet. Interior: reredos of 1876 by J. L. Pearson. Sedilia to right of altar. 4-centre-arched doorway to vestry with probably C16 plank door. Braced collar truss roof to chancel, altar area panelled with moulded ribs and carved bosses. Early C20 choir stalls. 2-centre chancel arch on shafted piers with squinches to each side. Vaulted crossing has rose bosses at intersections of ribs. Mid C19 stone pulpit. Shafted piers to crossing. Braced collar-truss roofs to north and south transepts, and to nave. South transept has alabaster tomb-chest, probably to William, Lord Lovell, having recumbent figure in armour to top with feet on lion and head on helmet, tracery panels to sides have figures and armorial shields. C15 octagonal stone font with traceried pier and quatrefoils to cardinal sides of octagonal basin. C15 pews to nave. History: probably built by William, Lord Lovell.*

5. The church is cruciform in shape, and is roughly 23 metres long from east to west. The main seating for the congregation is in the nave area, situated to the west of the 'crossing'. The church is used for regular worship, and it attracts visitors from around the world. According to the entry for the church at pp. 415-7 of the volume of *Pevsner's Buildings of England for North and West Oxfordshire* (2017 edn., by Alan Brooks and Jennifer Sherwood), the cruciform plan, with battlemented central tower, which is uncommon for the mid-C 15<sup>th</sup>, can be explained by the fact that the church is partly built upon earlier foundations. This has produced an exceptional arrangement at the crossing, where the tower was also rebuilt on old foundations, but the aisleless nave was widened. The ingenious solution to the problem of a tower smaller than the nave was to carry the west wall of the tower on two great, free-standing piers which link with the nave by narrow arches. This provides a view from the nave of both the chancel and the transepts. The spatial effect is that of a centrally planned church, as nave and chancel are of almost equal length. This was further opened up when the rood screen dividing the chancel from the nave was removed after the Reformation.

#### *The development of the faculty application*

6. This faculty application is accompanied by a detailed, 60-page, illustrated Statement of Significance, prepared in September 2022 by the Oxford Heritage Partnership. It is also supported by a detailed, 25-page, illustrated Statement of Needs, which was prepared by the Parochial Church Council (the **PCC**) and Oxford Heritage Partnership in October 2023. After an overview of the parish and the church as they are today, this latter statement recognises that, in order to continue the thousand-year Christian presence in Old Minster, and to provide financial support for the church building that represents a powerful expression of that presence, the parish need to improve their connection with the huge number of visitors that pass by St Kenelm's every month. The parish think that St Kenelm's Church has an evangelical potential for these visitors, many of them international, who do not currently come into the church in order to attend acts of worship. To realise that potential, the parish propose to enhance their ministries of welcome and education. Signage and displays will inform visitors about the purpose, in relation to the Christian faith, of what they are seeing, and also of the Christian history of the area. The church will also provide a place, and the resources, for private prayer and contemplation. The aim is for visitors to leave refreshed, better informed about Christianity, and encouraged to explore faith further. The parish recognise that, in the medium to long term, it may be necessary to review the parochial status of the church, particularly if they are unable to fill posts on the PCC in the future. They are nonetheless determined that their church building should remain open and accessible to all as a place of prayer and discovery. To this end, the parish have identified their needs in five separate areas: in relation to worship, prayer and ministry; visitors; accessibility; community activities; and sustainability and stewardship.

7. A delegation from the DAC visited the church in February 2024 in connection with the parish's proposals to improve the existing small toilet, which is dilapidated, damp and not fully accessible; to install a small servery to provide the kitchen facilities that are presently lacking at this church; and to provide a flexible space which could be used for small gatherings and seating at larger services, and offer interpretation about the site's history. At its March 2024 meeting, the DAC ratified the report of this visit, which encouraged the parish to continue developing their proposals. These were generally supported, although the DAC agreed that there was scope to improve the layout that was then proposed. Concerns were raised that proposals to retain the raised timber floor did not meet the requirements of the building regulations. It was recognised

that the removal of the existing timber floor, and its replacement with a new, lower floor, might uncover archaeological evidence. The parish were urged to look at the options for the floor, and to seek further advice on compliance with the building regulations.

8. Following the DAC delegation's site visit, in March 2024 one of the church buildings officers submitted a 9-page illustrated report on the visit to the parish. Amongst other things, this strongly encouraged the parish to review the options for the floor and to reconsider lowering the floor level. The parish responded that options for the floor had already been considered and discussed with Arnold Bartosch Ltd. Consideration had been given to removing the raised floor; but this was not considered feasible due both to the cost and to uncertainty about the condition of the flooring beneath. There was a vent in the current area, the depth of which was unknown, but which could prevent the floor being lowered without considerable extra work. The proposed ramp up to the raised floor level would be sympathetic to the overall design; and, whilst the church accepted the potential tripping hazard of the raised floor, having discussed this with Arnold Bartosch, the parish were of the view that this offered the best solution, with minimal risk of unknown costs. There were no plans to reintroduce carpeting. In response to a request briefly to explain why it had been decided to provide wheelchair access to the church by re-opening the south entrance, the parish reported that the use of the existing main entrance from the north for wheelchair access would cause difficulties due to the change in levels between the north porch and the church floor. There was already a level path through the churchyard to the south; and the proposed new access would be a continuation of this. A level access extending from the ruins of the Hall would encourage less enabled visitors to enter the church, and would open up this side of the church to visitors, providing a different aspect.

*The consultation process prior to the issue of the first Notification of Advice*

9. The DAC has undertaken consultation on the proposals.

10. *Historic England* were notified of the proposed works to the church in December 2024. Their specialist staff considered the information provided but they did not wish to offer any comments on the proposals.

11. *Historic Buildings & Places (HBP)*, the working name of the Ancient Monuments Society, were also consulted. In an email dated 6 January 2025, their ecclesiastical caseworker confirmed that this was a case where HBP could defer to the DAC. HBP commented that the documentation was comprehensive and clear, and they could accept the principle of what was being proposed. In particular, HBP noted the intention to keep two of the displaced pews, to lay a new floor of encaustic tiles, and to re-site the War Memorial. The design of the new amenities in oak looked appropriately contextual. The only item HBP wished to flag up was the proposed pair of handrails. The design was well thought-through – oak over stainless steel – but HBP queried whether they were unequivocally necessary. They observed that the ramp they were to serve seemed modest in its incline, and the rails would intrude somewhat into the most significant aspect of St Kenelm: the mighty, polygonal crossing.

12. There was also consultation with *the Church Buildings Council* (the **CBC**) on the proposals for a toilet, a servery, and an accessible entrance to the church. The CBC responded on 16 January 2025. The CBC thanked the parish and the DAC for the time and effort they had put into developing the proposals. The CBC considered the application to be well supported by the documentation. The CBC was content with the proposals, and to defer to the DAC on matters of detailed design; and it only had a few comments to make.

13. First – and it might be that this was being addressed outside the present application – it seemed paramount for the longevity of any installation in the north transept of this church that the damp problem experienced on the north side was investigated and action taken towards its improvement. The CBC was content for the DAC and the church architect to progress this alongside the parish. Secondly, accessibility was key in these proposals. Noting that the DAC had already brought this to the attention of the parish, and received their response, the CBC reinforced the DAC's concerns that: (1) the lowering of the floor of the north transept would be preferable to any ramp, and (2) adjustments to the existing north door would be a preferable solution to a path leading to the south door.

14. As to (1), the CBC recognised the parish's concern about the unknown condition of the north transept floor. But it suggested arranging for the pews and their platforms to be lifted so that the floor below could be checked to see whether a level floor might be feasible. Avoiding any need for a ramp and handrails would be better for accessibility and for the aesthetic significance of the building.

15. As for (2), the CBC's guidance on accessibility recommends that all should enjoy an equal experience on entering a church. The use of the south door would require traversing a long path away from the regular point of entrance, and, as such, it would be secondary. The optimal solution is usually to make the main entrance accessible for all. At other churches, the interior of the porch has been successfully graded as part of a ramp into the church. The CBC query whether a similar approach might work at St Kenelm's. If not, future work should prioritise equal access at the main entrance through alternative means. The CBC's guidance also advocates thinking about accessibility more broadly than simply in terms of physical access to the building. If, as proposed, the south door were to become the accessible entrance to the church, the parish must provide an equal welcome at that doorway. With the north and south doors opening into the same part of the nave, hopefully this should be easy to achieve. The south door should be open for all services and events, and not just by special request.

16. *The Society for the Protection of Ancient Buildings (SPAB)* first responded to the request for consultation by way of an email from their acting senior casework manager sent on 16 February 2025. This was therefore not available to be considered by the DAC by the time of its January 2025 meeting. SPAB thanked the parish for commissioning extremely thorough statements of significance and need for this application. SPAB fully appreciated the difficult decisions that the parish were having to make and that *"in the medium to long term it may be necessary to review the parochial status of the church, particularly if we are unable to fill posts on the PCC in the future"*. In the short to medium term, however, SPAB found the decision to keep the building open, and the resolution to *"better connect to the huge number of visitors that pass by St Kenelm's every month"*, admirable. In light of this, SPAB were generally supportive of these proposals, which would improve the church's facilities and accessibility in line with the applicants' stated aim to better accommodate tourists and those visiting for private prayer, in view of the dedicated, but diminishing, regular Sunday congregation. However, at that time, SPAB entertained a number of concerns. These related to: (1) the damp within the north transept; (2) the ramp in the north transept; (3) the handrail for that ramp; and (4) the loss of pews in the north transept. In relation to the ramp, SPAB fully supported the proposals to improve the accessibility of this space; and they noted that the option of lowering the entire floor of the north transept to avoid the need to introduce a central ramp had been shown to be unfeasible. Rather, SPAB's concern was to ensure that the design of the ramp, and the boarded gangway, would not damage the tiles underneath, assuming

that they were to be left in place and overlaid. These Victorian tiles date back to the restoration of the church by J. L. Pearson in 1868-69 and were therefore of '*moderate significance*' as a piece with the rest of the space. At that point in time, whilst supporting the scheme in principle, SPAB were concerned that the proposed works did not address the underlying causes of the damp problem. They were therefore presently unable to support the faculty. SPAB strongly advised the church architect to draw up a specification of works to tackle the multiple problems which were all likely to be contributing factors to the damp, as previously identified in the current quinquennial inspection report. SPAB had no objection to the north transept being carefully stripped out of all modern fittings, and the necessary works being undertaken. Once there was clear evidence of the north transept drying out, and of conditions improving, then further consideration could be given to the proposed re-ordering.

17. On 23 April 2025, Arnold Bartosch Ltd responded to SPAB's initial consultation response by way of a 3-page commentary on the proposed reordering of the church interior and the external works to the churchyard. Arnold Bartosch Ltd was pleased to read SPAB's general support for the proposed reordering, and it noted their comments regarding the grant of a faculty. To address the various concerns raised in SPAB's email, Arnold Bartosch Ltd sought to clarify and justify: (1) the works to address the dampness within the north transept; (2) the proposed adaptation of the pew seating; (3) the proposed ramp access; and (4) the proposed handrails. The existing pew seating, and the attached dado panelling within the Crawley Chapel in the north transept, would be removed and adapted. The form of the pew benches is such that when detached from the timber dado panelling, bench ends from the adjacent pews will be required to make a free-standing pews. Therefore, only two free-standing pews will be able to be created from the existing pew seating. The two northern-most pews are a slightly different design, and could make an additional free-standing pew provided the existing ends are sound. It is proposed to remove the existing dado panelling, rather than repair it, where the pew benches have been removed. The removal of the dado panelling will allow the underlying condition of the wall masonry to be investigated, and improve ventilation to the wall areas. The salvaged timber left over from the adapted pews, and the sound timber from the dado panelling, will be stored in a secure location to be used in a future phase of repairs to the nave pews. The proposed ramped access from the nave floor level up to the Crawley Chapel timber board level will be formed from treated, and selected, timber, which will be constructed, so far as practicable, by securing it to the adjacent timbers of the retained, raked timber floor. No fixings are to be made into the underlying, historic tiled pavements. A removable handrail design is proposed. When the handrails are not in position, brass blanking plates will be fixed in the timber recesses.

18. SPAB commented again, on the basis of this response, by email sent on 23 June 2025. SPAB acknowledged that a number of their initial concerns had now been addressed, and they only wished to raise a small number of points. They were pleased to see the damp issues in the north transept being addressed, and measures being taken to reduce surface water run-off and to improve external drainage. However, SPAB raised a number of supplemental queries, both internally and externally. In relation to SPAB's previous objection to the installation of a freestanding handrail in the proposed '*gangway*' into the north transept, SPAB cautioned that the installation of a removable handrail was likely, in reality, to become semi-permanent (even if it were theoretically '*removable*'), and this would therefore still result in considerable visual disruption to the central crossing area. SPAB had previously objected to the loss of the mid-C19<sup>th</sup> pews in the north transept, which they felt had not been adequately justified. SPAB understood that the intention was still to retain some of the pews, but that they would be moved

from their current location, and that some would be lost entirely through the process of adaptation. The pews are a surviving part of the 1860s restoration scheme by J. L. Pearson, and are considered to be of “*moderate significance as a group with Pearson’s other interventions*”. Whilst SPAB would usually defer to the Victorian Society on such an issue, as they had not been able to comment on this application to date, SPAB wished to reiterate their general objection to this loss of historic fabric. The pews are a key part of Pearson’s mid-C19<sup>th</sup> reinterpretation of the medieval church, and should not be considered ‘modern’ additions that could be removed as and when convenient. A number of pews had already been lost from the north transept, and these further removals would irreversibly distort Pearson’s vision for this space. SPAB would encourage the applicants to bear in mind that a crucial part of the pews’ ongoing significance is their fixed location in the church, and that they were probably never intended to be moved. Finally, it was significant that the pews had been assigned “*moderate significance as a group with Pearson’s other interventions*”; and SPAB urged the applicants to consider the detrimental effect that the removal of the pews would have upon the rest of Pearson’s scheme. Small, and seemingly justifiable, losses, like this, tend to contribute, over time, to the gradual attrition of ‘group value’; and SPAB considered that this proposal therefore entailed a serious, but latent, threat to the significance of the church interior that was not immediately obvious. SPAB must therefore register their ongoing objection to the removal of these pews; and they encouraged the applicants to consider whether this was an absolute necessity.

19. The Victorian Society were consulted on this application; but, by email sent on 24 June 2025, they indicated that they did not wish to comment upon it.

#### The issue of the DAC’s Notification of Advice

20. According to an email from one of the church buildings officers, sent to the parish on 30 January 2025, the DAC had discussed the parish’s most recent iteration of their proposals at its meeting on 20 January. I note from the published minutes of that meeting that the parish had brought new, but only relatively unaltered, drawings back to the DAC following the feedback it had given the parish in March 2024. The only significant change had been to incorporate handrails to the side of the ramp as part of the proposals. The email reported that the DAC had resolved to delegate the detailed design of the scheme to a sub-committee. I note that this sub-committee comprises an architect member of the DAC, the DAC’s archaeological adviser, and the DAC’s two disability advisers. Three members of this sub-committee had been present at the DAC’s January 2025 meeting. The email explained that this decision by the DAC meant that unless any significant changes were made to the scheme, the proposals would not need to be taken back to a full DAC meeting in order for them to progress further. However, the email recorded that the DAC still entertained concerns about compliance with the building regulations; and it strongly encouraged the parish, and their professional advisors, to satisfy themselves that the scheme was compliant before progressing any further design details. The email stated that the statutory consultation period had closed, and that comments had been received from both HBP and the CBC. The DAC appreciated that the railings had been introduced following advice from the diocesan disability adviser; but the consultees felt that these were harmful to the aesthetic significance of the polygonal crossing. The DAC therefore encouraged the parish to discuss the situation with regards to achieving building regulations compliance with their professional team; and it would be content to progress with a compliant scheme, whether or not this should include the handrails. In response to this email, the parish submitted an updated specification from Arnold Bartosch Ltd which sought to address the points raised both in the



email of 30 January 2025, and also SPAB's initial consultation response (which, as I have already mentioned) had post-dated the DAC's consideration of the parish's proposals at its January 2025 meeting.

21. The DAC first issued an NOA on 17 July 2025. By that time, the parish had already, in April 2025, produced revised drawings, and a revised specification and schedule of works. I have seen nothing to indicate that these revised proposals were ever brought back to the full DAC before this NOA was issued (under the hand of the DAC Secretary). By this NOA, the DAC recommended these revised proposals for approval by the court, subject to no less than 15 provisos (of which the first comprised ten separate requirements), as follows:

(1) Proposals for the following items shall be submitted to the Church Buildings Officer (the **CBO**), and agreed with the DAC sub-committee prior to the commencement of the works:

- (a) The parish should clarify the difference between the Crawley Aisle and the North Transept as the names appear to be used interchangeably.
- (b) The proposals for the repair of the south door.
- (c) The design and content of all new signage.
- (d) The proposed location and design of the display panels and their location.
- (e) The proposed location of the two cut down and adapted pews (this should be shown on the proposed plans)
- (f) The proposed location of the memorial flag and carved timber war memorial (this should be shown on the proposed plans)
- (g) Proposals for storing the retained timber from the removed furniture and wall panelling.
- (h) The design of the ventilation to the suspended timber pew platforms and ventilated area behind the wall panelling.
- (i) The specification of the extract vent cover which is to be installed; this should be provided alongside external elevation drawings showing the precise location of where all the vents are to be situated.
- (j) Samples of the timber finishing for the new joinery should be provided.

(2) The parish should report on the findings of the investigations into ground water drainage in section 3.24.01 and confirm whether the remedial works outlined in item 3.24.02 and 3.24.03 are required or if an alternative solution is to be proposed. The findings and final remedial works should be submitted to the CBO and agreed by the DAC sub-committee prior to the commencement of these works.

(3) No additional lighting should be installed. If further works are needed, a new consent will be required.

(4) The parish and their advisors should ensure that the new interventions meet the requirements of the applicable sections of the building regulations.

- (5) The parish should seek advice from the local planning authority as to what consents they require from them for the external works.
- (6) The south door should be open for all services and events, and not opened only by special request.
- (7) The Diocesan Archaeological Advisor should be consulted regarding the content of the display panels.
- (8) Although it is unlikely in this case, in the event of the discovery of any articulated human remains or significant archaeological deposits, the advice of the Diocesan Registrar should be sought and observed. No spoil is to leave the churchyard; and any charnel must be reburied with due reverence.
- (9) Any fixings are to be non-ferrous and are to be made into mortar joints or into plain plaster.
- (10) If the church has a pipe organ and the proposed works may create dust, the organ should be suitably protected (by being sheeted by specialist organ builders or tuners). The failure to ensure that this is done properly can easily lead to a very large bill later on as serious damage can be caused to pipework and action by the ingress of dust and grit.
- (11) If any hot works are required, the parish's insurer should be notified of the intention to carry out such works. A hot work permit process should be put in place for the leadworks in accordance with their guidance
- (12) The current diocesan guidelines for electrical installations and maintenance in churches are to be followed.
- (13) In order to prevent any risk of fire, only dimmable lamps should be used in conjunction with dimmable lighting units.
- (14) The parochial church council's insurers are to be notified of the proposals.
- (15) Every contractor or professional adviser engaged in respect of the works must be given a copy of the faculty; and these conditions must be expressly drawn to their attention.

22. After I had worked through this faculty application, and begun preparing the first draft of this judgment, I raised a number of queries with the CBO. The first of these was that according to the relevant, published minute of the DAC's meeting on 20 January 2025:

*The DAC resolved to delegate the detailed design of the scheme to the sub-committee subject ... to content responses from consultees. Once the sub-committee is content with the detailed design, a 'Not object' NOA should be issued as it is the view of the DAC that there could be improvements made to the layout.*

In the event a 'Recommend' NOA had been issued in July, even though the application did not seem to have been brought back before the full DAC since its January 2025 meeting. I queried why there had been a change from 'Not Object' to 'Recommend', without the matter having been brought back before the DAC. The response was that this was an error, and that the issued NOA should have been a 'Not Object' NOA. Accordingly, a new, revised NOA, dated 7 January 2026, was issued, retaining all of the original provisos. This NOA stated that the DAC did not object to the revised proposals being approved by the court (subject to the original 15 provisos). The

DAC's principal reasons for advising that it did not object to the proposals were that it is *"of the view that improvements could be made to the layout of the proposed facilities"*.

23. Both versions of the NOA note that the following bodies have been consulted on the works or other proposals: the local planning authority, Historic England, SPAB, the Victorian Society, the CBC, and HBP. It records that objections have been raised by SPAB, which have not been withdrawn. The DAC's principal reasons not objecting to the works and proposals being approved, despite SPAB's ongoing objection to the removal of the pews, are that *"the parish have set out their requirements in the Statement of Needs and the success of this project requires the parish to have free space around the new facilities"*. The NOA also records that *"The Victorian Society have declined to comment on this matter."*

24. In the NOA, the DAC advises that these works and proposals are likely to affect the character of the church as a building of special architectural or historic interest, although not the archaeological importance of the church, or any archaeological remains existing within the church or its curtilage. Notice of the proposals has therefore been displayed on the diocesan website, under rule 9.9 of the Faculty Jurisdiction Rules 2015 as amended (the **FJR**), in addition to the usual public notices which have been displayed on noticeboards inside and outside the church between 15 August and 14 September 2025. No objections have been received in response to any of these public notices.

#### Planning consent

25. On 8 August 2025, West Oxfordshire District Council, as the local planning authority, granted full planning consent (under ref: 25/01908/FUL) for the proposed extension of the existing footpath, along with drainage improvements, to facilitate access to the church through the south door. This planning consent was not uploaded to the supporting documents section of the OFS and was only supplied to me as part of Ms Jackson's email of 7 January 2026, sent in response to my earlier email queries referred to later in this judgment. I note that this would appear to satisfy proviso (5) to the NOA (*"The parish should seek advice from the local planning authority as to what consents they require from them for the external works"*).

#### Developments since the issue of the original NOA

26. I have already recorded that in September 2025 Arnold Bartosch Ltd made minor revisions to certain of their drawings, and to the specification and schedule of works, in order to address various matters raised in the NOA. The parish refer to these in their 3-page document entitled *'Responses to DAC Clarifications'*. The project now refers to works and proposals to and affecting the *'North Aisle'*; and the drawings and documents have been revised accordingly. The work on the display panels will be developed further. The south door has been opened and appears to be in good condition; but a provisional sum of £2,500 has been allowed for any unforeseen carpentry repairs. No additional lighting is proposed at present; once the work is complete, the PCC will consider the suitability of the existing lighting, and they will apply for a further faculty if this is required. The PCC are to instruct Arnold Bartosch Ltd to submit a Building Regulations application for all controlled works. A planning application will be submitted for any necessary planning consent for the extension of the existing access pathway to the south door (along the south side of the chancel and around the south transept). The parish have confirmed that the south door will be opened at the same times as the north door is open. The PCC's insurers will be notified of the proposals at the appropriate time. Arnold Bartosch Ltd will include a copy of the faculty and its conditions in the pre-commencement

project notes. The other matters identified in the provisos to the NOA have all been noted and are included within the revised specification.

27. When this petition was first referred to me, on 1 October 2025, I directed that special notice of the petition should be given to SPAB, pursuant to FJR 9.3. SPAB's acting senior casework manager responded (a couple of days out of time) by email dated 6 November 2025, as follows:

*Thank you for re-consulting the SPAB regarding the proposed works to the Grade I listed church of St Kenelm, Minster Lovell. We apologise for the slight delay in replying to you. We previously commented on these proposals in June 2025 when we wrote offering advice. We were very pleased to see that some changes had been made, but we raised some points for the DAC to consider:*

- Internally, could all the plastic paint finish be removed and replaced with breathable limewash to help the walls dry out?*
- Externally, we would encourage the removal of the cement mortar and its replacement with a suitable lime mortar to improve the breathability of the walls and allow the trapped moisture to evaporate.*
- We support the introduction of ventilation behind the kitchen units, but we would like clarification on how this will be achieved.*
- We queried the freestanding / removeable handrail in the proposed 'gangway' into the North Transept given its visual disruption within the central crossing area.*
- We objected to the loss of the mid-19<sup>th</sup> century pews from the North Transept, which we felt was unjustified as they were a surviving part of the 1860s scheme by J. L. Pearson and are of moderate significance. Some were to be lost or adapted, and others retained but moved. We encouraged the parish to carefully consider whether their complete removal was necessary to the success of the scheme.*

*We note that the War Memorial is also to be moved to the South Transept, but we have no objection to this.*

*Whilst we note that there have been some minor amendments to the scheme, the issues we have raised above have not been addressed. Whilst we do not wish to become party opponents, we have concerns that the works as proposed will not fully address the damp issues. We feel that, given the extent of the proposals, it would be a shame if these problems were not fully rectified now. We would strongly encourage the parish and DAC to give very careful consideration to the removal all the plastic-based wall paint and its replacement with limewash throughout the church. The removal of the cement mortar would also make a considerable long-term difference to helping the church dry out and therefore retaining heat more effectively.*

*By dry lining the walls of the WC cubicle and servery areas, the walls will not be able to breathe and there is a high chance that mould, and mildew may grow within the gap between the lining and the historic walls. It may be better not to dry line these areas and to have the walls exposed and fully breathable, as discussed previously. This, along with adequate*

*ventilation, is particularly important in an area of the church where the humidity will be higher than it is now.*

*We hope these comments are helpful to you. We do not need to be consulted again, but we hope that these points will be considered to ensure the success of the scheme.*

28. After the petition was re-submitted to me (on 6 November 2025), I invited both the parish and the DAC to comment upon SPAB's third (and final) consultation response.

29. The parish's response came in the form of an email sent on 21 November 2025 by one of the churchwardens (and petitioners). This addresses each of the points raised by SPAB (in order) as follows:

(1) Damp: Breathable limewash on internal walls/lime mortar on external walls

This issue was extensively discussed at a meeting held in Church House on 16 April 2025 between Liz Kitch (Head of Church Buildings and DAC Secretary), Emily Jackson (one of the CBOs, who had provided feedback to the parish in her email of 30 January 2025), the Archdeacon of Dorchester, and members of the parish's development committee (including the chairman, Andrew Feilden, a retired chartered surveyor with extensive experience of large projects, Andrew Cooper, a recently retired owner of a building company with great expertise concerning construction issues, the Rt Hon Jack Straw, a PCC member and one of the petitioners, and Harvey Faulkner-Aston, of Arnold Bartosch Chartered Surveyors, the parish's historic building consultants, who are well-known church architects. A contemporaneous note of this meeting was appended to the email.

The parish's approach to the damp issue had been subject to advice and concurrence by David Arnold, the principal of Arnold Bartosch Ltd. As could be seen from the accompanying meeting note, Andrew Cooper had told the Church House team that the parish's approach to the dampness would be dealt with within the specification. The note continues *'Liz [Kitch] and Emily [Jackson] [both the relevant Church House staff] accepted that this would be a satisfactory solution to the response from SPAB's report, and they would support this'*.

The parish have even less reason than SPAB to want a continuing problem from damp – they worship in the church regularly. The use of lime mortar is clearly stated at para 2.11 of the specification (doc ref 2367/March /2025 Revision A, 1 September 2025) - limewash is referred to at paras 2.11.10 and 2.18.02). But the parish are caught in a *'chicken and egg'* situation. They have already spent more than £20,000 in costs from church funds to get this far. But they cannot afford to commission more detailed work, including a more detailed specification, from Bartosch until the faculty has been granted, and they are then able to access funds which they have been promised, but which depend their release upon having the faculty. At para 3.24 of the specification, the parish have provided for investigative work to be undertaken to review the current ground water drainage. The findings of this investigation (which will be undertaken at the start of the planned work) will be submitted to the CBO, and agreed by the DAC sub-committee, before the works commence.

(2) Ventilation behind the kitchen units

The parish are glad to note that SPAB support this proposal. Exactly how it will be achieved will again depend on the detailed specification.

(3) Removal of the mid-19<sup>th</sup> century pews from the north transept, and the handrails

The meeting note records that in respect of these two issues, *“it was agreed that further discussion on this should take place, but these two points would not delay the faculty moving forward and could be incorporated as conditions within the faculty itself”*.

As they made clear in mid-April, the parish would be content with this approach. The pews may need to be re-sited within the church; and that is obviously up for discussion and agreement with Church House, subject to any conditions about this within the faculty. As for the handrails, here the parish are caught here between how the church looks, and meeting modern standards of disabled access. The parish are more than happy to receive further advice on this, although it should be noted that the inclusion of a handrail was suggested by the diocesan disability adviser following a visit to the church.

30. The parish respectfully ask that every effort is now made to bring their application to a successful conclusion by the grant of a faculty. Those involved in the application are all volunteers, who are doing their best with this project, and by other work, to ensure that their church stays open, and attracts more congregants and visitors.

31. I note that the email recording the meeting that took place at Church House on 16 April 2025 (apparently composed by Andrew Fielden) records that: *“The overall urgency of our need for a Faculty in view of the interest from the National Heritage Lottery Fund was explained and accepted by Liz and Emily.”* It also records that the parish *“cannot make official approaches to other grant givers until we have the Faculty”*.

32. In a later email, dated 24 November 2025, one of the churchwardens (and petitioners) confirmed that the parish *“are content for the Chancellor to determine the faculty application on the basis of written representations”*.

33. Ms Jackson responded to my request for any representations the DAC might wish to make in response to SPAB’s most recent comments by way of an email sent to the Registry on 3 December 2025. This makes it clear that this is predominantly her advice, based upon previous communications with the DAC sub-committee, which comes from her as CBO to avoid any delay. However, she confirms that the architect member of the sub-committee has reviewed the content of her email.

34. The email explains that the parish have been seeking advice from the Church Buildings Team (the **CB Team**) since 2017, when a member of the CB Team visited the church to discuss the parish’s then proposals. The parish started their present application in 2020 when there was further discussion with the CB Team. The application, in its present form, was first presented to the CB Team in 2023; and a site visit took place in 2024. Since the submission in 2023, the parish have put considerable pressure on the CB Team to deliver an NOA in time to meet their desired timeline to apply for National Lottery Heritage Fund (**NLHF**) funding. The parish were advised in May that the NLHF do not require the faculty to be in place before they award funding for the development phase, but the parish have continued to put pressure on the CB Team. They felt that the only way to move the project forward was to issue an NOA earlier in the process than would usually be the case. At the time of issue, the DAC had outstanding concerns regarding the technical detailing of the scheme, with the architect member of the sub-committee stating that some areas of this were inadequate, and would store up future problems for the parish. He could not see any information about how the parish proposed to deal with matters such as damp, etc.

This comment was supported by other members of the sub-committee; and as the CBO assigned to this case, Ms Jackson shared those concerns. The early issue of the original NOA resulted in a longer than would be usual list of suggested provisos to that notification. The parish have now provided updated documents which were available for SPAB to see during their most recent consultation.

35. The email goes on to explain that the church's previous quinquennial inspector before David Arnold, was Peter Bartosch, a respected conservation architect who had worked alongside David when the firm was known as Bartosch & Stokes. As such, Arnold Bartosch Ltd, as an organisation, are well acquainted with the damp issues which affect this church. The 1995 quinquennial inspection report by Peter Bartosch states that there was some algae at pew level at the east and west ends of the north transept, and some algae growth at low levels in the tower crossing, so the issues that can still be seen today are of long standing. Bartosch & Stokes were the architects for the installation of the existing north transept spaces. In their letter to the PCC, dated 23 April 2025, Arnold Bartosch Ltd has identified the ways in which they are proposing to address the damp issues. In its post-NOA submission, Arnold Bartosch Ltd has provided additional details regarding ventilation as requested. David Arnold is aware of the previous steps which have been taken to address the damp, and he is proposing some further improvements.

36. Ms Jackson points out that this church is situated close to the River Windrush; and, like many historic churches of its age, ground water levels have risen since the church was first built. She expects that it will be difficult for this church ever to be totally dry. At this church, the green growth can be seen in the middle of the church, in the central tower columns, and in the external walls of the chancel. This problem is likely to be caused by something other than just the cement pointing in some areas, and localised plastic painting in the north transept.

37. Ms Jackson's email addresses the present concerns raised by SPAB regarding the failure of the proposed works fully to address the existing damp issues as follows:

*(1) We would strongly encourage the parish and DAC to give very careful consideration to the removal all the plastic-based wall paint and its replacement with limewash throughout the church.*

The plastic-based wall paint is limited only to the area where the existing 2005 rooms are located, at the rear of the north transept. The proposals are carefully to remove the plastic paint finish to the walls only where loose, and without mechanical or chemical processes. Whilst the removal will increase the breathability of the wall, it could also cause further damage. It is likely, if it becomes affected by moisture, that this finish, behind the proposed new drylined wall, will deteriorate and flake off (into the void) before significant damage occurs to the stonework. However, if the parish were to be asked to remove the plastic paint, and subject to trials being undertaken to establish the most appropriate way to remove this, Ms Jackson would expect that the DAC would be supportive of its removal as it will allow the wall to breathe as intended.

*(2) The removal of the cement mortar would also make a considerable long-term difference to helping the church dry out and therefore retaining heat more effectively.*

The 2020 quinquennial inspection report states that the stonework to the east, west, and north walls of the north transept is in good condition and makes no mention of any cement-based pointing in this area (although this is identified in other areas of the building). Removal of cement-based pointing, unless already loose, can cause further damage to stonework; and the risk

of this should be assessed against the scale of the issue and the impact it is having on a case-by-case basis.

(3) *By dry lining the walls of the WC cubicle and servery areas, the walls will not be able to breathe and there is a high chance that mould and mildew may grow within the gap between the lining and the historic walls. It may be better not to dry line these areas and to have the walls exposed and fully breathable, as discussed previously. This, along with adequate ventilation, is particularly important in an area of the church where the humidity will be higher than it is now.*

Whilst the parish have now provided details of the proposed ventilation, dry lining of any historic building is not without risks, as SPAB have identified. To have the walls fully exposed and breathable would entail removing the plastic paint. As previously discussed, this could be repainted with a suitable breathable finish. The alternative option to the parish, should they wish not to have the stonework exposed, would be to apply a breathable lime plaster, with a breathable finish in the new spaces. However, should either of these options be followed, it would still be necessary to provide adequate ventilation to the pew platform, and for this to extend behind the new servery units which will be placed against, and, in the case of wall cabinets, hung from, the walls. In the documents provided since the NOA was first issued, the parish have now shown how they wish to address this; and both Ms Jackson and the DAC sub-committee architect are of the view that the parish have considered this well, although they do still need to confirm that ventilation is provided to the base of the dry lining.

38. At the time of Ms Jackson's email, the DAC was still in discussion with the parish concerning the provisos to be included within the NOA. The email concludes by pointing out that the parish now wish to commence a further application to re-roof the chancel, although they are awaiting confirmation of NHLF funding for the development costs before embarking upon this. They will be working with the same firm of surveyors on those proposals.

39. After receiving Ms Jackson's email on 3 December, having worked through this faculty application (as one of some 20 then outstanding such applications), and having prepared the first draft of this judgment, I raised a number of queries in an email sent to the Registry Clerk on 29 December 2025 (which I copied to Ms Jackson). I have already identified my concern about the recommendation to approve this faculty application in the original issued NOA. Another query resulted in the production of the planning consent for the extension to the access path to the south door (along the external south walls of the chancel and the south transept). Related to this, I expressed a concern (which did not appear to have been considered in any of the uploaded documents) about the potential effect of the new access path on any existing grave plots or memorials. Since the Diocesan Archaeological Adviser had attended the site visit on 1 February 2024, and no concerns had been raised under the heading '*External Proposals*' (on page 6 of the report of that site visit), I indicated that I assumed that there would be no impact on any graves or memorials. But I invited confirmation that this matter had indeed been considered, and presented no difficulty about the width of the proposed southern pathway. The response I received was that the CBO believed that the parish had planned the route of the footpath so as to avoid any burials. However, she would be content to add an additional proviso to the effect that:

*The route of the footpath to the south door is to avoid all known burials; and if these cannot be avoided, the advice of the Diocesan Archaeological Adviser and a Church Buildings Officer should be sought.*



Should this be engaged, it was said that this would trigger the requirement to consult any heirs-at-law, and would therefore require a further faculty.

40. I also expressed concern that it was not clear to me to what extent the DAC were content that any of the provisos included within the NOA had now been satisfactorily addressed. This was relevant to the conditions to be included within any faculty. I noted that in September 2025, Arnold Bartosch Ltd had made minor revisions to certain of their drawings, and to the specification and schedule of works, in order to address various of the provisos in the NOA. I queried what matters were still outstanding, and would need to be addressed by way of condition. The response was that, to date, the parish had provided information to satisfy proviso 1 (a), concerning clarification of references to the Crawley Aisle/North Transept, and also proviso 1 (i), relating to the extract vent cover. All other items remained outstanding and would need to be addressed by way of condition. I indicated, in particular, that it was not clear to me whether the DAC would support the removal of all the plastic-based wall paint, and its replacement with limewash, in the area where the existing 2005 rooms are located at the rear of the north transept; and also what the attitude of the DAC was to the dry-lining of the walls in the area of the proposed works. The CBO's response was that the removal of the paint would allow the wall to breathe as originally intended, and that the DAC would support the removal of all the plastic-based paint, subject to the parish undertaking trials to establish the most appropriate way to remove the paint so as to reduce damage to the underlying stone surface. There was a possibility that trials might determine that removal was going to cause more harm than leaving the paint in place. I also queried whether the description of the drawings and specification for the works in the faculty should be amended by the addition of the words '*as further revised in September 2025*'. The response was that the September 2025 documents did not cover all elements of the work, and that the expectation was that further drawings would be required to specify and agree these. If I considered that this additional wording was required, the CBO would be content with this.

41. Finally, in light of the consultees' expressed concerns about the need for any handrails, I also recorded that I was considering imposing a further condition along the following lines:

*Recessed fixing holes are to be made into the timber boarded floor to accommodate removable handrails either side of the ramped access, and these are to be provided with brass blanking plates; but removable handrails are not to be commissioned unless and until the diocesan disability adviser has inspected the completed ramped access and has confirmed that it is necessary for removable handrails to be provided either side of it.*

I invited the CBO's comments on this. Ms Jackson indicated that she would be supportive of this approach.

#### The legal framework

42. Since St Kenelm is a Grade I listed church building, the court is required to have regard to what have become known as the *Duffield* guidelines when determining this faculty application. These are named after the decision of the Court of Arches in the leading case of *Re St Alkmund, Duffield* [2013] Fam 158, and have been considered, and refined, in later cases. The court must first consider whether the implementation of these proposals would cause any harm to the significance of this church as a listed building of special architectural or historic interest. As part of that process, the court must first identify the nature of that significance. If so, the court must then consider how serious such harm would be, and how clear and convincing is the justification

for carrying out the proposals. The court must bear in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building. Where a church is listed Grade I or II\*, only exceptionally should serious harm be allowed. The court must ask itself whether the petitioners had demonstrated a clear and convincing justification for their proposals, in terms of any resulting public benefits which would outweigh any resulting harm. At paragraph 87 of their judgment, the Court of Arches made it clear that in this context, ‘public benefit’ includes:

*... 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.*

43. As I observed at paragraph 19 of my judgment (in this diocese) in *Re St Laurence, Combe* [2022] ECC Oxf 5, following the *Duffield* guidance, the court must bear in mind that:

- (1) The burden rests on the petitioners to demonstrate a sufficiently good reason for making any changes to a listed church building;
- (2) The more serious the harm, the greater the level of benefit that will be required before the proposals or works can be permitted; and
- (3) Only exceptionally should serious harm be allowed to a building which is listed Grade I or II\*.

The court must also consider:

- (4) Whether the same, or substantially the same, benefits could be obtained by other proposals or works which would cause less harm to the character and special significance of the church building. As I pointed out in my judgment (also in this diocese) in *Re St Peter & St Paul, Aston Rowant* [2019] ECC Oxf 3, (2020) 22 Ecc LJ 265 at paragraph 7:

*If the degree of harm to the special significance which would flow from proposed works is not necessary to achieve the intended benefit because the desired benefit could be obtained from other less harmful works, then that is highly relevant. In such circumstances, it would be unlikely that the petitioners could be said to have shown a clear and convincing justification for proposals which would, on this hypothesis, cause more harm than is necessary to achieve the desired benefit.*

44. In *Re St Stephen, Redditch* [2025] ECC Wor 2 (in the Diocese of Worcester) Chancellor Humphreys gave consideration (at paragraphs 27 to 32 of her judgment) to the meaning of the expressions ‘serious harm’ and ‘substantial harm’, specifically in relation to proposals for the creation of further rooms on a mezzanine level to be introduced above the ground floor of a Grade II listed church building as part of major re-ordering proposals. As I understand her judgment, the Chancellor was of opinion that no issue could be taken with the propositions: (1) that ‘substantial harm’ should be equated with ‘serious harm’; (2) that this represents a ‘high test’, with the key being the seriousness of the degree of harm to the significance of the particular church building in question; and (3) that for harm to the significance of a church building to be considered as ‘serious’ (or ‘substantial’), its impact must be such that its significance is either vitiated altogether, or is very much reduced, so that very much, if not all, of that significance is ‘drained away’. At paragraph 33 of her judgment, Chancellor Humphreys concluded that:

*Ultimately therefore, the determination of the level of harm to the significance of [the church building] caused by the proposals is a matter for me, informed by the representations of both the petitioners, the objectors and by the other evidence in the case. Similarly, the weighing up of the public benefit of the proposals and balancing them against the harm is also a matter for me, taking into account the evidence filed in the case.*

I agree with, and would endorse, this description of the task that befalls me. For a fuller description of the decision-making function and process involved in assessing the degree of harm to a listed church building, and weighing any countervailing public benefits, and the church's needs, against such harm, reference may usefully be made to paragraphs 87 to 96 of the characteristically full and detailed judgment, borne out of his considerable experience as a diocesan chancellor, of Chancellor Petchey (in the Diocese of Southwark) in *Re Holy Trinity, Clapham* [2022] ECC Swk 4, (2023) 25 Ecc LJ 276.

45. Finally, at paragraph 81 of my judgment in *Re Jesus College, Cambridge* [2022] ECC Ely 2 (handed down as Deputy Chancellor of the Diocese of Ely) I referred to the requirement enshrined in s. 35 of the *Ecclesiastical Jurisdiction and Care of Churches Measure 2018* to have due regard to a church's purpose. This 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.*

I explained that the statutory predecessor of that section (s. 1 of the *Care of Churches and Ecclesiastical Jurisdiction Measure 1991*) had been considered by the Court of Arches (Sir John Owen, Dean, 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 of the report, 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 who carried out “*functions of care and conservation*”. Rather, in carrying out their functions under the faculty jurisdiction, chancellors were required (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 Arches 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 recorded that I understood this 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 of Arches' observation (at page 8 of the report) “*... 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.*”

#### Analysis and conclusions

46. Since this is an unopposed faculty petition, and the petitioners consent to this course, I am satisfied that it is expedient in the interests of justice, and in furtherance of the overriding objective of the FJR, for me to determine this application without a hearing, and on the basis of the considerable volume of written and illustrative material that has been uploaded to the OFS, and is available to the court. Doing so will save expense, and will enable the court to deal with the case proportionately, expeditiously and fairly. I have not found it necessary to visit this church. That is because the considerable number of helpful images of the interior and exterior

of the church that have been included within the documentation uploaded to the OFS have given me a very clear impression of the present layout and appearance of this church, both inside and out, and its setting. I have included a relevant selection of these images at the end of this judgment.

47. In considering this faculty application, I have had regard to the revised NOA, to all of the consultation responses, and also to the responses and observations of the parish and the CB Team. As is always the case, I am extremely grateful for all the hard work undertaken by the parish and their professional advisers, the CB Team, the DAC, and the statutory consultees in developing, and commenting upon, the parish's evolving reordering proposals, and for their constructive contributions to that evolution. As I explained in my recent judgment (in this diocese) in *Re Holy Trinity, Sunningdale* [2026] ECC Oxf 1 (at paragraph 51):

*There can sometimes be a tendency for parishes to treat statutory consultees as an impediment to the implementation of their plans. However, as a Chancellor seized with the occasionally unenviable task of determining sometimes contentious development proposals, I always find the invariably well-informed contributions, rooted in their deep knowledge and experience, of the CBC, Historic England, and the national amenity societies with a particular interest in churches or works the subject of a particular faculty application, of immense value and assistance to me. These serve to underpin the ecclesiastical exemption, which performs such an important function in achieving the essential compromise between the interests of conserving, and preserving, important examples of this nation's invaluable built heritage whilst ensuring that its ecclesiastical components can continue to serve their primary function as living and working exponents of the role of a parish church as a centre of worship and mission in and to its local community.*

In the present instance, it is SPAB who have taken the lead role in commenting upon these reordering proposals. I am particularly grateful to them.

48. Following the approach of Chancellor Humphreys in *Re St Stephen, Redditch* [2025] ECC Wor 2, it falls to me, as Chancellor, both to determine the level of harm that the implementation of the present proposals will cause to the significance of St Kenelm, and also to weigh up the public benefit of those proposals, and then to balance them against that harm. However, my determination must be heavily informed by the representations, and evidence, presented by the petitioners, the statutory consultees, and the CB Team.

49. Notwithstanding the matters raised by the CBC about equal access, I am satisfied that the parish have provided a clear and convincing justification for providing assisted access to the church building through re-opening the south door (at all times when the existing door in the north porch is open), which is to be served by an extension to the existing pathway along the south side of the chancel and around the south transept. This will be less intrusive than, and therefore preferable to, seeking to address the change in the level of the floor between the north porch and the nave of the church. However, care must be taken (by way of appropriate conditions) to ensure that such access involves no interference with any existing burials or memorials.

50. I am entirely satisfied that the approach proposed by the CB Team to addressing the damp problems that affect the north transept of the church is entirely justified. The removal of all the plastic-based wall paint, and its replacement with limewash, in the area at the rear of the north transept where the existing rooms were created in 2005, may well prove beneficial by

allowing these walls to breathe as originally intended. But I accept that trials need to be undertaken to establish the most appropriate way of removing this paint so as to minimise any damage to the underlying stone surface. There is the possibility that such trials may establish that any paint removal is likely to cause more harm than leaving the paint in place. In my judgment, the appropriate approach to this issue is to proceed by way of suitable conditions in any faculty authorising these proposals. The dampness issue is no reason for refusing a faculty if the need for it is otherwise made out.

51. I am also satisfied that the parish have made out a clear and convincing case for their proposed treatment of the new floor to be introduced into the north transept. I accept that the proposed handrails will be visually intrusive, and that this will cause a moderate degree of harm to this area of the church building. That harm will be mitigated by the fact that the handrails will be removeable. But I do recognise SPAB's concern that, in reality, there is a risk that any handrails may become a semi-permanent addition to this part of the church fabric. For this reason, I agree that they should only be introduced if they are absolutely necessary for reasons of health and safety. The best way to assess this is in light of the situation on the ground after the new floor and the modest ramped access have been installed. I would therefore propose to address this concern by including the following condition within the faculty:

*Recessed fixing holes are to be made into the timber boarded floor to accommodate removable handrails either side of the ramped access, and these are to be provided with brass blanking plates; but removable handrails are not to be commissioned unless and until the diocesan disability adviser has inspected the completed ramped access and has confirmed that it is necessary for removable handrails to be provided either side of it.*

52. I am satisfied that the existing 1860s pews in the north transept are of 'moderate significance', both for their intrinsic worth, and as forming part of a group with J. L. Pearson's other additions to the church. I agree that not only would their adaptation and removal irreversibly distort Pearson's vision for the north transept, but this would also have a detrimental effect upon the rest of Pearson's pewed seating scheme for the church. I agree with SPAB that small, and seemingly justifiable, losses like this can, over time, tend to contribute to the gradual attrition of 'group value'. But I do not agree that this relatively modest reordering proposal, affecting only a relatively small number of pews within a small, and discrete part of this church building, which has already undergone some change at the north end of this transept, entails a serious, albeit latent, threat to the significance of this church interior. Rather, I would categorise the resulting level of harm to the significance of this Grade I listed church building as 'modest'. Certainly, I do not consider that it can fairly be characterised as 'serious' or 'substantial' harm under the high threshold of the key test established by the authorities. In my judgment, the detrimental impact of the proposed changes upon St Kenelm is not such that its significance is either vitiated altogether, or very much reduced, so that very much, if not all, of that significance would be 'drained away'. There is no destruction of existing historic fabric, beyond the loss of the five north transept pews. Further, even this loss will be mitigated by the restyling, and retention, of two of them, which will remain as freestanding pews. I note that it is only SPAB that objects to this aspect of the proposals; and that the Victorian Society, often so astute to resist any unjustifiable removal of pews from buildings falling within the scope of their period interest, has not chosen to respond to the DAC's invitation to consult on these proposals.

53. Since I am satisfied that some, albeit modest, degree of harm will be caused by the parish's proposals for the reordering of the north transept, I need to move on to consider

whether such harm is outweighed by the need for these proposals, and the ensuing public benefits they will bring. I must also proceed to consider whether the same, or substantially the same, benefits could be obtained by other proposals which would cause less harm to the character, and special significance, of this Grade I listed church building. Whilst this latter consideration is not articulated expressly in any of the *Duffield* questions, it is implicit within the fourth of them: *‘How clear and convincing is the justification for carrying out the proposals?’* If a desired benefit can practically be achieved in a way that causes less harm to the significance of the listed church building, it will not be necessary to cause that harm in order to obtain the resulting benefit. Whilst it is necessary to keep these two different aspects of the fourth of the *Duffield* questions firmly in mind, in this case (as in many others) it is convenient to address them together.

54. In answer to the fourth of the *Duffield* questions, I am entirely satisfied that the petitioners have established a clear and convincing need, and justification, for these proposals if St Kenelm is to improve its connection with, and fulfil its evangelical potential as a place of welcome, and education, for the very many visitors to the neighbouring Minster Lovell Hall who do not currently choose to enter the church, and thereby provide the financial support required to continue the thousand-year Christian presence in Minster Lovell. That need is fully articulated in the documents uploaded by the parish to the OFS in support of this petition, as summarised earlier within this judgment. It has been expressly recognised, and accepted, without any real qualification, both by the CBC and HBP in their consultation responses (as set out above), and by the DAC in the NOA; and implicitly by Historic England and the Victorian Society by their decision not to offer any comment on these proposals. For the same reasons, I am also satisfied that the same, or substantially the same, benefits could not be obtained by any alternative proposals which would cause less harm to the character, and special significance, of this exceptional Grade I listed church building.

#### Disposal

55. Overall, I am satisfied that the parish have fully justified, as being in the public interest, the reordering proposals they are still in the course of carefully developing with the object of advancing the mission, and seeking to ensure the financial stability, of this church so as to meet the needs of its worshippers, its local community, and the wider public going forward, despite the moderate harm that these proposals will cause to the significance of this magnificent, and inspiring, church building. I wish the parish well in their endeavours to grow both the Christian faith, and to serve visitors to Minster Lovell. As I have previously recorded, I would wish to extend my sincere thanks to the statutory consultees, and to the DAC and the CB Team for their customary hard (and in this case, prolonged) work on this online faculty application.

56. For the reasons I have given in this judgment, I have arrived at the clear conclusion that I should grant this faculty application, albeit subject to extensive conditions. Reflecting both the provisos in the NOA, and my own concerns, I propose to impose the following conditions:

(1) Insofar as these have not already been satisfactorily addressed, proposals for the following items shall be submitted to the Church Buildings Officer (the **CBO**), and agreed with the DAC sub-committee, prior to the commencement of the relevant works:

- (a) The repair of the south door.
- (b) The design and content of all new signage.

- (c) The proposed location and design of the display panels and their location.
  - (d) The proposed location of the two cut down and adapted pews (this should be shown on the proposed plans)
  - (e) The proposed location of the memorial flag and carved timber war memorial (this should be shown on the proposed plans)
  - (f) The storage of the retained timber from the removed pew furniture and wall panelling.
  - (g) The design of the ventilation to the suspended timber pew platforms and ventilated area behind the wall panelling.
  - (h) Samples of the timber finishing for the new joinery.
  - (i) The trials to be undertaken to establish the most appropriate way of removing the plastic-based wall paint in the area to the rear of the north transept where the existing rooms were created in 2005 so as to minimise any damage to the underlying stone surface and (if appropriate) for its replacement with limewash.
- (2) The parish should report on the findings of the investigations into ground water drainage in section 3.24.01 and confirm whether the remedial works outlined in item 3.24.02 and 3.24.03 are required or if an alternative solution is to be proposed. The findings and final remedial works should be submitted to the CBO and agreed by the DAC sub-committee prior to the commencement of these works.
- (3) No additional lighting should be installed. If further works are needed, a new faculty consent will be required.
- (4) The parish and their advisors should ensure that the new interventions meet the requirements of the applicable sections of the building regulations.
- (5) The parish are to comply with the conditions contained within the planning consent granted by West Oxfordshire District Council on 8 August 2025 (under ref: 25/01908/FUL) subject to such variations as may be permitted by the local planning authority and approved by the DAC.
- (6) The south door should be open for all services and events, and not opened only by special request.
- (7) The Diocesan Archaeological Advisor (the **DAA**) should be consulted regarding the content of the display panels.
- (8) The route of the footpath to the south door of the church is to avoid all known burials and memorials; and if these cannot be avoided, the advice of the DAA and a CBO should be sought and followed before this aspect of the faculty is implemented.
- (9) Although it is unlikely in this case, in the event of the discovery of any articulated human remains or significant archaeological deposits, the advice of the Diocesan Registrar should be sought and observed. No spoil is to leave the churchyard; and any charnel must be reburied with due reverence.
- (10) Any fixings are to be non-ferrous and are to be made into mortar joints or into plain plaster.

(11) If the church has a pipe organ and the proposed works may create dust, the organ should be suitably protected (by being sheeted by specialist organ builders or tuners). The failure to ensure that this is done properly can easily lead to a very large bill later on as serious damage can be caused to pipework and action by the ingress of dust and grit.

(12) If any hot works are required, the parish's insurer should be notified of the intention to carry out such works. A hot work permit process should be put in place for any leadworks in accordance with their guidance

(13) The current diocesan guidelines for electrical installations and maintenance in churches are to be followed.

(14) In order to prevent any risk of fire, only dimmable lamps should be used in conjunction with dimmable lighting units.

(15) The parochial church council's insurers are to be notified of these proposals before any of them are implemented; and the parish are to comply with any recommendations or requirements they may make or impose.

(16) Recessed fixing holes are to be made into the timber boarded floor to accommodate removable handrails either side of the ramped access, and these are to be provided with brass blanking plates; but removable handrails are not to be commissioned unless and until the diocesan disability adviser has inspected the completed ramped access and has confirmed that it is necessary for removable handrails to be provided either side of it.

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

57. The reference in the scope of the works or other proposals to the drawings and the specification and schedule of works will need to be expanded so as to include the further words: "*as further revised in September 2025, and subject to such further revisions as may be approved by the CBO by way of satisfaction of these conditions*". To allow time for the necessary fundraising, as well as for completion of these works, in the first instance I will allow two years for the implementation of this proposal.

*Postscript: the progress of this faculty application*

58. I should conclude with a few observations about how this online faculty application has progressed. As appears from the foregoing recital of events, this application, in its present form, was first presented to the CB Team in 2023. A delegation from the DAC undertook a site visit in February 2024. At its March 2024 meeting, the DAC ratified the report of this visit, which encouraged the parish to continue to develop their proposals. This faculty application was considered by the DAC at its meeting on 20 January 2025. By that time the parish had brought new, but little altered, drawings back to the DAC following the feedback it had given the parish in March 2024. The only significant change had been to incorporate handrails to the side of the proposed internal ramp in the north transept. The DAC resolved to delegate the detailed design of the scheme to a sub-committee, subject to '*content*' responses from consultees. By then, Historic England, the CBC, and HBP had already responded to the DAC's consultation requests but neither SPAB nor the Victorian Society had done so. Once the sub-committee was content with the detailed design, it was to issue a '*Not object*' NOA as it was the view of the DAC that improvements could be made to the proposed layout. In the event, a '*Recommend*' NOA was



issued on 17 July instead, even though the application had not been brought back before the full DAC, and even though SPAB had produced a '*not-content*' consultation response. This was because the parish had been putting considerable pressure on the CB Team to deliver an NOA in time to meet their desired timeline to apply for NLHF funding. The CB Team had felt that the only way to move the project forward had been to issue an NOA earlier in the process than would usually be the case. At the time of issue, the DAC sub-committee had outstanding concerns regarding the technical detailing of the scheme, with the architect member of the sub-committee stating that some areas of this were inadequate, and would store up future problems for the parish.

59. The application was only referred to me as Chancellor on 1 October 2025, after the public notices had been duly displayed. I directed that special notice should be given to SPAB. There was then a slight delay before SPAB responded. When the matter was referred back to me, on 6 November, there was a further delay until about 3 December before I received the responses I then requested from the parish and the CB Team to SPAB's third (and final) consultation response. There was then a further delay whilst I considered this substantial petition (amongst some 20 others which had arrived at around the same time) and before I was able to identify a number of queries which needed to be resolved by the CBO, including the erroneous recommendation in the NOA (which had to be corrected by the issue of a replacement NOA, on 7 January 2026), the planning position regarding the external works, and the extent of unresolved matters in light of the revised drawings and specification and schedule of works which had been received in September 2025, after the issue of the first NOA.

60. It seems to me that there may be lessons to be learned from this case for the future. The DAC in the Diocese of Oxford operates a highly developed, and well-structured, scheme of delegation to sub-committees. It needs to do so because of the sheer volume of faculty work which this large diocese generates. Last year alone, my Deputy and I granted over 180 online faculty applications. In my experience, this system of delegation almost invariably operates wisely, and well. But in this case, it seems to me that something has gone wrong: an NOA was issued, in respect of a Grade I listed church, some six months after the matter was last before the full DAC, in the wrong form, and despite the fact that SPAB had subsequently produced a '*not-content*' consultation response, and even though the DAC sub-committee had outstanding concerns regarding the technical detailing of the scheme, to such an extent that the NOA incorporated no less than 15 provisos (of which the first comprised ten separate requirements). This seems to me to have attributable to the parish exerting considerable pressure on the CB Team to deliver an NOA in time to meet a perceived timeline for applying for NLHF funding. This led the CB Team to feel that the only way to move this project forward had been to issue an NOA earlier in the process than would usually have been the case. The history of the processing of this application would seem to me to demonstrate that this may only have served to create delay in the issue of this faculty. Whilst I intend no criticism of anyone within the CB Team, or at the DAC, who clearly wished to do their best to assist the parish, I venture to suggest that any similar pressures should be resisted in the future.

*David R. Hodge*

The Worshipful Chancellor Hodge KC

The Baptism of Christ and the First Sunday after Epiphany

11 January 2026

The ruins of Minster Lovell Hall with the south elevation of the church visible to the north



View along the nave looking towards the crossing and the chancel beyond



View of the western crossing arch with flanking short passageways to the transepts





View from the crossing into the north transept



Close-up of the existing timber screen in the north transept, installed in 2005



View into the existing toilet





The north elevation of the church showing the main access through the north porch



The interior of the north porch





The church viewed from the south-east, with the main path from the Hall to the lane  
passing the east elevation,



The junction between the nave and the south transept, with the south nave door in the centre, the stair turret centre on the right, and the boiler house on the right.





Close-up of the door on the south side of the nave, to the west of the south transept  
(on the right), which will form the new accessible entrance



Extract from the general arrangement drawing

