

**Neutral Citation Number: [2019] ECC Wor 1**

## **In the Worcester Consistory Court**

**Archdeaconry of Worcester: Parish of St Nicholas and All Saints, Worcester:  
Church of All Saints:**

**Faculty petition (2018-027311) relating to reordering of church (phase one):  
removal of pews; installation of new chairs; removal and repositioning of  
radiators; repositioning of font; repositioning of chained Bible; removal of  
wooden screen at west end; installation of kitchen and servery in base of  
tower**

## **Judgment**

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### **Introduction**

1. All Saints, Worcester is a large city-centre church on a prominent site above Deansway, as it nears the river crossing. The site has a long history, reflected in some older fabric still surviving from the Norman church; but the present building is largely Georgian in origin, attributed to master mason Richard Squire, and dating to around 1740. The interior was remodelled in 1889 by Aston Webb, a notable local architect (who also remodelled Buckingham Palace in London) – in an exercise described by the local press at the time as “an almost entire transformation”.
2. As outlined in the Statement of Significance, the overall appearance of the interior is largely a result of Webb’s re-ordering. In particular, the Georgian box pews were removed, with some being re-used as panelling on the perimeter walls and around the base of the columns. In their place, thirteen rows of deal benches were introduced, in four blocks – to either side of the central aisle, and against the north and south walls. The pews stand on herringbone-pattern wood-block flooring that is level with the tiled central aisle and the side aisles.
3. The church was listed by the Minister of Housing and Local Government as a building of special architectural or historic interest, Grade II\*, in 1954.
4. The parish was for most of its history the largest and most populous in the city, and the church was until the nineteenth century closely surrounded by housing. The houses gradually became unfit for living in, and were accordingly removed. By the end of the twentieth century, the church attained its present somewhat aloof character – at least externally – largely surrounded by roads and open land. That is gradually changing, with the construction of apartment blocks on the quay to the west and the technology centre to the south.

5. Since the start of the 21<sup>st</sup> century, the congregation at All Saints has grown significantly, with around 300 now attending regularly each week, including approximately 100 children and young people, for worship in an evangelical-charismatic style. And the church is a base for a thriving ministry of outreach to the local community, with members of the congregation active in running a foodbank, a branch of Christians Against Poverty (CAP), a Home for Good fostering scheme, and street pastors.
6. Most recently, in 2018, the Diocese designated All Saints as a “resourcing church”, to enable it to revitalise existing congregations, and equip and encourage them through training events and ministry teams, and to plant new churches.

### **The proposal**

7. The vision of the parish for the church is explained as follows, in the Statement of Needs:

“Our vision for the All Saints building is for it to be a multi-functional space that can be used flexibly and creatively for Sunday worship and mid-week activities, to be the main venue for resourcing church training events and conferences, and to be a valued space for use by the wider community, particularly in the area of the creative arts – for example, hosting art exhibitions and concerts.

“At present the church building is used for our Sunday morning worship gathering, weddings and funerals. The church is also used to host concerts (including [at] the Three Choirs Festival) and some mid-week activities.

Sized between the intimate Huntington Hall and the grandeur of the Cathedral, the scale and size of this internal space is unique in Worcester, and suited for a range of functions. ...

All Saints would like to extend the use of the church building, both for the growing congregation (additional Sunday worship gatherings are planned) and for resourcing church training events, but also by others in the wider community, including local schools and college, the University, for concerts, exhibitions, lectures, dinners and fundraising events.”

8. To achieve this, the parish is envisaging a multi-stage reordering plan:

#### *Stage One (2019)*

Removal of pews; installation of new chairs;  
removal and repositioning of some radiators;  
repositioning of font and chained Bible;  
removal of wooden screen at west end; and  
installation of kitchen and servery in base of tower.

*Stage Two (2020)*

Replacement of lighting system;  
upgrade of electrics; installation of broadband line;  
new signage and lighting in churchyard, including illumination of the church; and  
complete redecoration of the church.

*Stage Three (2021-22)*

Addressing structural repairs identified in the quinquennial inspection report; and  
upgrade of the central heating, to include underfloor heating.

*Longer term*

Replacement of portacabin toilets with building extension in the courtyard, to include permanent toilet facilities, kitchen, small office and additional meeting rooms.

9. The present petition relates to the first of these stages.
10. The most significant element of the proposed works is the removal of the pews and the introduction of around 300 chairs. The parish explains the justification for the removal of pews as follows:

“The area within the nave is the largest internal space within the city centre, excluding the Cathedral. However, the pews restrict the space to one configuration and therefore way of using the space. It is not possible to use the space for activities or events requiring other configurations of seating or flexible use of the space.”

It proposes to retain two pews, as exemplars, to be located in the Lady Chapel.

11. The current heating system is operating satisfactorily, although it will be reviewed once the presently planned changes have been completed and are in use. But a small number of radiators are to be removed at this stage, as they are immediately adjacent to the front and rear of the central blocks of pews to be removed.
12. As to the new chairs proposed, the parish has carried out what it describes as extensive research, and is satisfied that the proposed SB2M upholstered chair remains the best chair to use, on the basis of comfort, handling and cost. It has seen such chairs used in other listed churches, has been reassured as to their durability, and feels that their sleek modern design will sit well with the Georgian architecture of the All Saints interior whilst also complementing the lively, informal evangelical style of worship.
13. The parish also proposes to mitigate the visual impact of the stored chairs and trollies when not in use, by arranging for them to be concealed behind a series of moveable screens designed to mirror the design of the serveries elevations.

14. The font to be moved is close to the main (south) door, and is one of two fonts added during the nineteenth-century restoration. The parish feels that it is poorly located, and it is not currently in use. The proposal is to move the font to the east end of the southern aisle, a space that appears to be currently used for musical equipment for the band that no doubt accompanies the worship. That would free up its existing location to better enable hospitality at the west end of the nave.
15. The chained King James Bible is apparently one of only two surviving examples in parish churches (Thomas Cromwell issued an injunction in 1538 requiring every parish to buy a copy of an English bible of the largest size and place it in some convenient place for all to see and read). The one at All Saints dates back to the early seventeenth century. It is currently in a glass case at the western end of the nave; and the proposal is to move it to a new location in the Lady Chapel, attached to the north face of the north-east column.
16. The existing timber panelling at the rear of the nave, flush with the front (east) face of the central archway, is to be removed. In its place will be a purpose-built modern servery, containing a dishwasher, fridge, sink and induction hob. The front of the servery will be set further back into the archway than the existing screen, and the detailing of the servery and the open area behind it (occupying the base of the tower), will be carefully detailed to respect the existing wall panelling and other features.
17. According to the petition form (Form 3A), dated 29<sup>th</sup> January 2019, the works are to be supervised by the church's inspecting architect, Nick Joyce, and are expected to cost £50,015 – to be paid from funds currently available to the Parochial Church Council (PCC). However, the Statement of Need suggests that fundraising for the cost of chairs and trollies (£22,848) will need to take place during May to September 2019.
18. The proposal is unanimously supported by the PCC.

### **The views of the Diocesan Advisory Committee**

19. The Diocesan Advisory Committee (DAC) has considered the proposals, and recommended them, subject to a number of provisos, all of which are capable of being the subject of suitably worded conditions. These provisos related to:
  - the recording of the church and the fittings to be removed;
  - the retention of the two most appropriate pews;
  - the new chairs, and associated trollies and screens to mask them;
  - the detailed specification of the new kitchen.

## **Consultation with other bodies**

20. Special requirements as to consultation arise in any case where proposed works would involve alteration of the church to such an extent as would be likely to affect its character as a building of special architectural or historic interest. Under rule 4.4 of and Schedule 2 to the Faculty Jurisdiction Rules 2015, the parish should consult with Historic England (if a church is listed Grade I or II\*), any national amenity societies that are likely to have an interest in the works, and the local planning authority (Schedule 2, paragraphs 2 to 4).
21. By virtue of paragraph 1 of the Schedule, such consultation “should” take place before the parish seeks the advice of the DAC. Further, the DAC, in giving its advice under rule 4.5, may include a recommendation as to which bodies should be consulted, including those already mentioned and the Church Buildings Council. And the Chancellor, under rule 9.3, must require those bodies to be consulted unless that has been done already (giving them 21 days in which to respond).
22. In this case, the DAC expressed the opinion that the works would involve alteration of the church to such an extent as would be likely to affect its character as a building of special interest. I agree with that opinion.
23. It accordingly recommended that the parish should consult Historic England, the Georgian Group, the Victorian Society and the Church Buildings Council. They were consulted, and expressed their views – in some cases on two occasions – as noted below. The parish also chose to consult the Society for the Protection of Ancient Buildings (SPAB), although it was not required to do so by the DAC.
24. Unfortunately, the parish did not consult the planning authority, and the DAC did not recommend such consultation. And the omission did not come to light until the very end of the process. However, in the light of the reservations that had been raised by some of the bodies that were consulted, I considered that the authority must also be consulted, and I therefore issued a direction to that effect, under rule 9.3.
25. I regret that this meant that the issue of this decision was delayed, but that should act as a warning to other parishes to ensure that they consult all those likely to have views (including the planning authority) as soon as possible.

## **Historic England**

26. Historic England was concerned as to the almost wholesale removal of the pews, which it considered would have a considerable impact on the significance of the building. It suggested that they were not a standard catalogue item, and suggested that their origin should be carefully researched so as to establish conclusively their provenance, rarity and significance.

27. As to the removal of the cast-iron radiators, it pointed out that the overall plan for the heating of the church needed to be considered carefully – particularly as under-floor heating might have archaeological implications. But it raised no particular objections to the works currently proposed.
28. It was also concerned as to the replacement seating proposed. It suggested that upholstered seating is rarely appropriate for highly graded listed churches, being unsympathetic in terms of colour, texture and character; it can detract from the character of the interior, alter the acoustic quality of the building; and it typically requires more frequent refurbishment than wooden pews. If the decision were to be made to remove the pews, any replacement chairs must be of adequate quality – with consideration given to how they (and any associated trollies) are to be stored.
29. It also noted that the parish was proposing to introduce the new chairs once sufficient funds had been raised, with no guarantee as to when that would be – with substandard chairs (already in its possession) to be used in the meanwhile. It suggested that the removal of the pews, if permitted, should be postponed until funds are available for their immediate replacement with an appropriate alternative. This point (also made by the DAC) has been taken on board by the parish.
30. Historic England was opposed to the servery as originally designed, but is content that the design now proposed is a much more subtle and appropriate insertion into this sensitive location. It raised several detailed concerns as to the design of the servery, and how the units will relate to the wall panelling.
31. It had no objection to the moving of the font or the chained Bible.
32. Historic England did not wish to become a formal party opponent, but merely requested that its concerns should be taken into account.

### **The Georgian Group**

33. As noted earlier, the present All Saints Church is largely of Georgian origin – albeit much altered subsequently.
34. The Georgian Group was concerned about the loss of the pews, and the effect this would have on the interior character of the church. But it deferred to the Victorian Society in identifying the significance of the pews, and addressing the justification for their removal.
35. The Group also expressed concern as to the quality of any chairs introduced to replace the pews, and was not convinced as to the quality of those that had been chosen. And it emphasised the importance of considering carefully the way in which they would be stored and screened.
36. Like Historic England, it was pleased to note that the servery had been redesigned so as to set the units further back into the tower, and to clad them to a contemporary oak design, more appropriate in this location. It had no issues with the moving of the font or the chained Bible.

37. The Georgian Group did not express a wish to become a party opponent.

### **The Victorian Society**

38. The Victorian Society registered “strong objection” to what is proposed. It drew attention to the significance of Webb, and his work at All Saints. As the Society put it,

“the gallery was removed, as were the box pews, and Webb re-seated the nave and aisles with handsome classicising benches deliberately treated to harmonise with the oak round the bases of the columns and walls, and to cohere stylistically with the rest of the building.

Historic England’s guiding principles on assessing the significance of historic seating propose five key points for consideration:

- its relationship to the character of the building’s interior;
- its historic interest (which might relate to the history of the building or liturgical or social history);
- its aesthetic character;
- the quality of its materials and craftsmanship; and
- the completeness of its survival as a seating scheme.

We submit that in every respect the seating scheme at All Saints scores highly. Certainly we can see no convincing basis for the assertion in the Statement of Significance that the pews are of low significance.

On the basis of the above, we conclude that the bench seating is highly significant, and that the impact of its wholesale loss would be correspondingly significant, and seriously harmful to the special historic and architectural interest of the II\*-listed building.”

39. The Society also strongly objected to the proposed replacement seating. It considered that the chairs proposed are not appropriate to the highly listed church interior, and would seriously erode its aesthetic qualities. It considered that new seating should be of high quality, timber-framed and not upholstered.
40. It raised no objection to the removal of the radiators, the disposal of the tower screen, and the introduction of the new servery in the base of the tower – although it echoed the concerns of Historic England as to the detailing of the servery.
41. The Society also observed that the justification for the relocation of the font was unclear, particularly in the event that the interior is largely cleared of fixed seating. It considered that the font should remain at the west end, near the entrance and in its existing, suitably spacious surroundings.
42. Finally, the Society said that it was disappointed with the general quality of the documentation submitted with this petition, including the statements of need and significance. It pointed out that the scheme had been under consideration

for a long time, and yet there was no independent assessment of the benches and their significance; no business plan showing how the church was proposed to be used; and no evidence that alternatives (perhaps involving less damaging interventions) had been considered.

43. The Victorian Society has chosen to become a party opponent, but registered a preference that the case be decided by written representations.

### **The Church Buildings Council**

44. The Church Buildings Council noted that the parish had exciting and ambitious plans for the use of both All Saints and the church with which it is associated, St Helen's on the High Street.
45. The CBC supported the scheme generally, including the proposed removal of what it described as "the low significance pine pews". But it too expressed concern as to the proposed temporary replacement chairs.
46. It did not have any concerns with the removal of the twentieth-century pine screen across the tower arch, nor with the proposed servery. It also supported the relocation of the font and the chained Bible to the east end.
47. The CBC also encouraged the parish to work towards a more cohesive vision to manage the fabric of the church building, to include removal of inappropriate wiring, and the carrying out of necessary repairs.

### **Other consultees**

48. The SPAB has stated that it does not wish to make any comment on these proposals.
49. The planning authority, having been given 28 days in which to express a view, chose not to respond.

### **Procedure**

50. This is an opposed petition, but neither the petitioners (the parish) nor the party opponent (the Victorian Society) wished there to be an oral hearing. I decided that, in view of the limited supporting material available – in particular, drawings and photographs – and in the light of the strong opposition to the proposals, especially from Historic England and the Victorian Society, I should visit the church to see for myself the points raised by the parties.
51. None of those who had raised objections wished to be represented at a site inspection, so I made my visit on 12 July 2019, accompanied only by the Deputy Registrar. A representative of the parish enabled us to gain access,

and subsequently showed us a sample of the proposed chair in the parish office, but otherwise took no part in the inspection.

52. In the light of my site inspection, and given the relatively narrow issues between the parties, and the written submissions by all concerned, I decided that I had enough information to enable me to reach a decision on the basis of written representations, without the need for a full oral hearing.
53. However, not least for the benefit of other parishes, I should record that I was not impressed by the skimpy nature of the documentation provided by the parish. The plans supplied were detailed as to the serverly, but were otherwise limited, and only barely adequate – in particular as to the way or ways in which the proposed new seats would be laid out, to enable me to have a clear impression of what the church would look and feel like once the works had been completed.
54. To that extent at least, I share the disappointment expressed by the Victorian Society. The parish has not done itself any favours by the way in which it has chosen to present its case.
55. On the other hand, I have seen – both in the Diocese and elsewhere – a number of churches that have been comprehensively re-ordered in the way now proposed at All Saints, particularly those of a similar churchmanship, and I can well understand what is intended and the type of activities that are likely to be undertaken there. This type of scheme is no longer, if it ever was, particularly radical or unusual; there are many other examples in city-centre churches across the country.

### **The issues in contention between the parties**

56. It will be seen from the above summary of the concerns that have arisen that they have all been raised by statutory consultees; and that they all relate to the effect on the significance of the church as a building of special architectural or historic interest of the removal of the pews and the introduction of the chairs. As to the first, concerns have been raised by Historic England, the Victorian Society and the Georgian Group. Those three bodies, and the Church Buildings Council, also expressed concern as to the chairs to be introduced by way of replacement.
57. The Victorian Society has raised concern as to the movement of the font; but no objections have been raised as to the moving of the chained Bible.
58. No objections have been raised to the removal of the existing screen under the tower, and none to the principle of the new serverly. As to the latter, some concerns were raised as to the detailed design, but they have largely been taken account of in the revised design now proposed; and a condition can be imposed to ensure that the DAC will approve the detailed specification.

59. I am content without further ado to allow the moving of the chained Bible, and the glass case in which it is housed, to the Lady Chapel. It is a significant feature of the church, but I agree that its present location at the rear of the nave is not ideal.
60. I am also content to allow the removal of the screen at the base of the tower – which is not considered by anyone to be of any particular merit – and the installation of the new servery in this area. I agree that the redesign of the servery, setting it back into the arch, is a worthwhile improvement. And I accept that the detailed design will need to be carefully considered, so I will impose a suitable condition in that regard.
61. As to the remaining items of proposed works, which are in contention, two questions arise:
- what is the general approach to alterations proposed to a church that is a building of special architectural or historic interest?
  - what is the approach to the moving of a font?

### **Alterations to historic churches**

62. The problem that arises in this case is one that has troubled the church for many years. It was summarised as follows by the Court of Arches in *Nickalls v Briscoe* [1892] P 269 at p.283:
- “[the objectors] have put forward their attachment to the old church and its interesting connection with times gone by; but they seem to forget that the sacred edifice has a future as well as a past.”
63. More recently, the Court put it thus (in *Maidstone, St Luke* [1995] Fam 1 at [4]):
- “As in the realm of liturgy so also in relation to church buildings it has been the wisdom of the Church of England to keep the mean between the two extremes, of too much stiffness in refusing, and of too much easiness in admitting change.”
64. As to how the balance should be struck, the approach that should now be taken by a consistory court to considering a petition relating to proposed works to a historic church was explained by the Court of Arches in *Duffield, St Alkmund* [2013] Fam 158 at [87]:
- “(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, 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 II\*, where serious harm should only exceptionally be allowed.”
65. In a subsequent decision, the Court of Arches noted that, in answering question (1), it is necessary first to consider what is the special architectural or historic interest of the church in question (*Penshurst, St John the Baptist* (2015) 17 Ecc LJ 393 at [22]). It also observed that the grade at which the church has been listed will be highly relevant.
66. Various decisions of consistory courts since then have followed the principles set out in *Duffield* and *Penshurst*; they are still good law.
67. It is also relevant to note that, in many cases, a proposal will consist of two phases: a negative one, where existing fabric is removed, and a positive one, where something else is inserted in its place. In such a case, it is the whole scheme that must be considered, in order to ascertain its effect and the extent of any harm to the significance of the building (*East Riding of Yorkshire Council v Hobson* [2009] PTSR 561). Where existing seating in a church or in part of it is to be removed, and new seating introduced in its place, therefore, it is the overall impact of the whole project on the significance of the whole church that is to be considered, not just the impact of the removal of the pews on the part of the church directly affected.

### **The moving of a font**

68. As to the law, Canon F1 ('of the Font') provides as follows:
- “1. In every church and chapel where baptism is to be administered, there shall be provided a decent font with a cover for the keeping clean thereof.
  - 2. The font shall stand as near to the principal entrance as conveniently may be, except there be a custom to the contrary or the Ordinary otherwise direct; and shall be set in as spacious and well-ordered surroundings as possible.

3. The font bowl shall only be used for the water at the administration of Holy Baptism and for no other purpose whatsoever.”

69. The reason for the font being at the main door was to emphasize the symbolism of baptism as the sacrament marking a person’s entry into the life of the Church.
70. The interpretation of Canon F1 in practice has been the subject of considerable debate, and has exercised a number of consistory courts in the context of proposals to relocate the font away from a position by the door of a church, usually towards a more prominent position nearer the chancel steps.
71. In the light of the uncertainty on this topic, the House of Bishops produced a document in 1992 clarifying its understanding of the legal position. It noted that different positions of a font indicated different theological emphases, and confirmed that its position should not be decided solely on the basis of visibility. It also encouraged parishes to consider introducing a single font designed so that baptism could be administered by effusion, partial immersion or submersion.
72. This did not prevent a number of subsequent proposals for moving fonts reaching the courts. Emphasis has been placed on:
- the desirability of there being a single font in a church;
  - the desirability of that font being at a suitable and prominent location, ideally but not necessarily by the main door currently in use.
73. The issue has been considered at length in *Wandsworth, Holy Trinity* (2012) 15 Ecc LJ 125, in which the chancellor summarized the relevant historical background and examined the principal decisions of the courts relating to proposals to relocate fonts. He concluded (following the decision of this court in *Eckington, Holy Trinity* (1999) 5 Ecc LJ 489) that the basic rule was that a font should be as near the principal entrance to a church as conveniently may be, but that it may be permissible for it to be relocated elsewhere in exceptional circumstances.

**The effect on the significance of the church of the replacement of pews with chairs**

74. Firstly, then, in the light of the decisions in *Duffield* and *Penshurst*, it is necessary to consider what is the special architectural or historic interest (sometimes referred to as “significance”) of All Saints Church, and what is the contribution to that special interest made by the pews now proposed to be removed.
75. The overall significance of All Saints is set out in the list description, annexed to the statement of significance, and summarised in the opening paragraphs of this judgment. In short, it is a largely Georgian building of c.1740, albeit on the site of one or more earlier churches, the interior of which underwent “an almost

entire transformation” by Aston Webb in 1889. The pews were one of the more visible elements of that transformation, but there were many others.

76. As to the significance of the pews, no evidence has been produced as to their provenance. But it may be assumed that they were either designed by Webb, or procured by him from a specialist craftsman of the period. It is noteworthy that the pews are not mentioned in the list description, nor in either of the extensive articles on the church in Bridges, *Churches of Worcestershire* (2<sup>nd</sup> edn, 2005, pp 238-240) or Brooks and Pevsner, *Buildings of England: Worcestershire* (second edition, 2007, pp708-709).
77. The removal of the pews is resisted by Historic England, the Victorian Society and (less vehemently) the Georgian Group. The points made by the three bodies, as would be expected, largely overlap. The Victorian Society asserts that they are of significance (and their removal thus objectionable) by virtue of five criteria identified by Historic England. I consider each in turn.
78. As to the first two of those five criteria – their relationship to the character of the building’s interior, and their historic interest (which might relate to the history of the building or liturgical or social history) – the pews are a significant element in the history of the building, namely the transformation of its Georgian interior by a noted late-Victorian architect. That was part of the ongoing development of the building for contemporary worship. The Georgian box pews, after 150 years, were considered no longer appropriate for what was then modern worship patterns.
79. There is no particular logic in requiring them to be retained if, after another 130 years, they too are no longer considered appropriate. I have no doubt that any chairs introduced now will in due course themselves be removed, because they will also be considered unsuitable – for reasons that can at present only be guessed at.
80. As for the third and fourth criteria – the aesthetic character of the pews; and the quality of their materials and craftsmanship – they are perfectly seemly of their kind, but no-one has been able to point to any particular features of special interest. They appear to be standard Victorian benches, such as may be found in churches of the period all over England. The CBC describes them as being “low-significance pine pews”. I have seen nothing to suggest that is an inaccurate assessment. And they are now looking slightly worn so that, if they were to be retained, they would in due course need to be restrained or otherwise improved. But in any event two will be restored and retained so that there is a record of this element of the Church’s history.
81. As to the fifth of the Historic England criteria – the completeness of their survival as a seating scheme – that is indeed applicable in this case. But that is not on its own a basis for retaining them. What it does emphasise is that it is important in a large city-centre church of imposing character to retain a coherent pattern of uniform seating. This is therefore not a case where retention of some would be worthwhile.

82. I also note that both the Diocesan Advisory Committee and the Church Buildings Council are both content with the removal of the pews.
83. In short, one view is that pews should be retained, as they represent the history of the church building. The other view is that they should be removed because they represent the past history of the building, and the church wishes to make new history, by moving on. Both are perfectly arguable; but I am satisfied that the long-term interest of preserving the building – quite apart from ensuring the flourishing of the congregation – will best be served by letting it be used in a way that reflects the needs of today, rather than those of 130 years ago.
84. That is the approach that was taken by the Court of Arches in *Nickalls v Briscoe*, noted above. And it is markworthy that the judgment in that case was handed down in March 1892, at almost exactly the time when the Georgian pews were being removed from All Saints to make way for the Victorian ones that are the subject of the present proceedings. I agree with that approach.
85. I therefore conclude that the removal of pews and their replacement with modern chairs, will not of itself be harmful to the overall significance of the church. It will be a significant change, which will be considered undesirable by those who like fixed seating in a church, and desirable by those who dislike it. But the pews that are to be removed were themselves a replacement for earlier seating. The change now proposed is thus in line with the ongoing evolution of this church interior. I also note that all of the other elements of the Webb transformation are to be retained.
86. One specific issue raised by the Victorian Society is the possibility that the removal of the Victorian pews might cause damage to the wall-panelling. In the light of that concern, I have examined carefully the juxtaposition of the pew ends and the panelling, and there appears to be only limited fixing. I am satisfied that, provided the removal is done carefully, there will be little if any irreparable damage.
87. Finally, no change is needed to floor levels in this case. It appears that the present wood-block flooring – level with the tiled central aisle and side aisles – was introduced in the Webb transformation, so there is no need (as there is in some churches) to remove pew platforms and make good the floor.

### **The need for the new seating**

88. As for the need to replace pews with chairs, I realise that chairs are not as flexible as is sometimes argued by those in favour of introducing them. If they are to look good, they must be linked together – which also assists in ensuring that they do not constitute a safety hazard in the event of a rapid exit in emergency. In many churches they remain in the same configuration throughout the year, with the much-vaunted flexibility not taken advantage of. Groups of different numbers of people can be seated more conveniently in pews or benches than in chairs. And the fact that pews or benches are heavier

than chairs means that they provide better support for those getting up and sitting or kneeling down.

89. On the other hand, chairs are easier to move than heavy wooden pews or benches. And in a church with a large congregation, as at All Saints, it should be easily possible to find people to carry out the necessary moving exercise. Fixed pews can only be in one layout. With chairs, by contrast, even if they remain for a long period in basically the same layout, that layout can be subtly varied – for example to allow gently curved rows. And a few rows can be removed from the front or the back to cope with particular needs – including special services, concerts and exhibitions.
90. Some find pews and benches uncomfortable – although I do not give a great deal of weight to that argument, as any seating can become uncomfortable after a while. And they cannot readily accommodate wheelchairs and pushchairs – it is easier simply to remove one or more chairs as required, either from time to time or regularly. That enables a parish to fulfil more readily its obligations under the Equality Act 2010.
91. Perhaps most importantly, a church full of modern chairs – whether upholstered or not – feels quite different, and sends out a quite different message to newcomers and visitors. It is a living building, not a museum. That will not of course be to the taste of everyone; museums, after all, have a place, as do individual items of historic interest – as is recognised by, for example, retaining the chained Bible at All Saints. But the style of the worship that I understand takes place at All Saints is much better accommodated in a building that has a contemporary feel.
92. I am therefore satisfied as to the need for new seating.
93. Since I have already found that there will be no harm to the overall significance of the church, I do not need to go on and do the balancing exercise envisaged in *Duffield*. But even if I am wrong as to that, I think it is likely that any harm that may arise to the character of the church as a building of special architectural or historic interest will be more than outweighed by the practical benefits arising from the proposed new scheme.
94. One specific consequence of removing the pews is that some radiators will need to be removed as well. That seems to follow on inevitably. I note that it is intended to consider the whole issue of heating in a future phase of the works; and that exercise will obviously take into account the result of losing the radiators that are to be removed now. But that need not prevent their removal going ahead.
95. Finally, under this heading, the parish should, as a matter of good stewardship, consider carefully how they dispose of the pews (other than the two to be retained) and the radiators, so that they do not simply end up in landfill. It may well be that members of the congregation may want one or two, or that other churches can use them; or that local schools may be grateful for timber for craft projects. The DAC will no doubt be happy to advise.

## The new chairs proposed

96. But if the pews are to be removed, what is to replace them? New chairs have been proposed, which have been chosen by the parish as a result of a careful process of judging five different types (out of a larger range initially considered) by reference to a number of criteria, including their visual appearance, their comfort (both sitting and slouching), the ease with which they could be lifted, and their durability. Some were upholstered, some were not.
97. The preferred chair design, the SB2M from Alpha, scored highest in relation to all the criteria. Happily, at £57.90 per chair, it was also the cheapest, compared to the second highest scorer – the Howe 40/4, often used in church reordering projects – which was the most expensive, at £216 (each including VAT). For 320 chairs, the total cost would be £18,528 and £69,120 using the two types – a difference of just over £50,000.
98. Having looked at a number of consistory court decisions relating to reordering schemes similar to what is proposed here, I observed that in many cases an upholstered chair was used, often in spite of opposition from the amenity societies on just the same basis as in this case, and citing the same guidance from the CBC. I am not convinced that un-upholstered chairs are intrinsically better. They have not been used historically, of course, but that was largely because they were unavailable in large quantities until relatively recently.
99. I have already concluded that it is intrinsically desirable to replace pews of indifferent quality with chairs, provided that in a formal, urban church building such as this the uniformity of the overall appearance is retained. And I suspect that it is always possible to criticise a historic church that has been filled with a large number of matching contemporary chairs, of whatever style, as looking slightly like a modern conference centre.
100. I also note the comments of the deputy chancellor in *Hastings, Holy Trinity* (2019), an unreported case decided at the start of this year that concerned the removal of pews from a Teulon church, to be replaced by Alpha SB2M chairs – also opposed by the Victorian Society. He first recorded the views of Historic England as regards the proposed removal of pews, which of course opened up the issue of the choice of replacement seating. It had said:

“We understand that fixed seating of this nature is not compatible with the worship style of Holy Trinity Hastings, and while in usual circumstances we would encourage partial retention, or adaptation of pews to increase flexibility, we are persuaded here by the needs of this particular congregation. There is also the requirement and further potential for the church to be used for large scale community activities such as youth events, concerts etc. We are also mindful of the vulnerability of the church to closure, until recently.”
101. The deputy chancellor continued:

“12. I set out that extract here because, while it concerns the removal of the remaining pews in the nave (some pews having already been removed in bygone years), Historic England’s rationale is in my view also relevant to the question of whether the Alpha chair is appropriate here. In particular, Historic England suggests that:

‘(a) this church had been vulnerable to closure until it came under the leadership of a team from the Holy Trinity Brompton network in 2014, and

(b) decisions about seating should take into account the suitability of seating for the particular style of worship that has been integral to the favourable reversal of this church’s fortunes since 2014.’”

102. He gave limited weight to many of the arguments that were advanced by the parish in support of its chosen chair, but agreed with its final argument, to the effect that the Alpha chair fits the context of the church. He noted that the vicar had argued that “at Holy Trinity, there is currently a juxtaposition of the Victorian architecture with the contemporary stage, lights, drums and guitars”. He concluded:

“17. In my view, that final consideration is the petitioners’ most persuasive point, and attracts significant weight. Such juxtaposition for its own sake is not necessarily a positive – indeed, the opposite will often be true. I do, however, give weight to this point because it chimes with Historic England’s reasoning as regards pew removal (see paragraphs 12-13 above). I accept that a particular style of worship has been integral to the rejuvenation of Holy Trinity, and that the Alpha chair is a suitable complement to that style of worship.”

103. It seems to me that a similar argument applies in the present case. All Saints is a lively church, with a more modern style of worship. It has been identified by the Diocese as a resource church. And it is likely to be used for a variety of purposes as well as conventional worship. A more modern style of chair is therefore suitable.

104. As for the specific argument that upholstered furniture is less durable, that may be true to some extent – clearly an upholstered chair is vulnerable to spills, rips, chewing gum and so forth. But if 320 chairs are to be purchased, the parish can afford to lose one or two. Further, as I noted above, this chair is one-third of the price of the Howe chair – so that it would be possible to replace the entire stock twice and still save money. The low cost is not intrinsically an argument in favour of the proposed chair, but it does help to mitigate problems from any possible lack of durability.

105. I am also aware of the need to ensure that all of the new chairs are introduced at the outset, rather than them being introduced gradually to replace the existing substandard chairs. And I have already noted that the parish has taken that point on board, along with the need to purchase trollies for moving the chairs and suitable screens to conceal the trollies and unused chairs.

106. I therefore conclude that the proposed design of chair is acceptable.

### **The need to move the font**

107. Finally, the parish wishes to move the font. I have already summarised briefly the applicable law. I noted that the basic rule is that a font should be as near the principal entrance to a church as conveniently may be, but that it may be permissible for it to be located elsewhere in exceptional circumstances.

108. The font at All Saints is indeed near to the principal entrance. It is said to be in the way – but that will often be the case with fonts near the entrance of a church. That is indeed, arguably, the whole point of the symbolism of a font being at the entrance – it reminds onlookers of their own baptism every time they come through the door. And a fixed font will to some extent be “in the way” wherever it is located.

109. The proposed location is at the front (east) end of the south aisle. But that area at present appears to be used by the worship band, with drums and other instruments. And once the pews have been removed, and replaced with chairs, there will be plenty of space at the back for a welcome area and general movement.

110. It may be that a more convincing case can be put forward in a few years' time, once the new layout (or series of layouts) have been in place for a while. However, in the meantime, I am not convinced that the parish has demonstrated exceptional circumstances sufficient to justify moving the font in this case.

### **Other points**

111. I share the slight unease expressed by several of the bodies that were consulted as to the way in which the parish has relegated to Stage Three an unspecified item referred to simply as “addressing structural quinquennial repairs”. It is important that the parish does not neglect the less glamorous (and seemingly not yet costed) items of maintenance and repair – particularly if they indeed turn out to be structural repairs rather than merely cosmetic ones – in favour of the more immediately exciting reordering of the interior.

112. I realise that the best way to find the money for repairs is to have a thriving congregation, whose members can afford to give more. But I noted on my visit that there were some basic maintenance items – notably clearing gutters of vegetation – that appeared to have been neglected.

113. I also note that the next stage will involve an upgrade of the electrics (including, it is to be hoped, the lighting generally), a complete redecoration of the interior, and new signage. Those are all very welcome – and I agree with the CBC that it would be good to rectify what it described as the “untidy appearance” of the

interior". But I will not be keen to authorise any further works until the parish has in place a clear plan as to the overall upkeep of the building.

## **Conclusion**

114. A faculty should therefore issue to authorise all of the works in Stage One with the exception of moving the font, subject to the following conditions:

- (1) that the works should start within 36 months of the date of the faculty;
- (2) in relation to the removal of the pews and the radiators and the introduction of the new chairs, that no works shall start until:
  - (a) a full photographic record of the pews in-situ has been made and submitted to the DAC office, for inclusion in the Diocesan and Parish archives, along with measured drawings of one representative pew, to be undertaken by an archaeologist approved by the DAC;
  - (b) a scheme for the retention in the church of two representative pews in good condition and the disposal of the remainder has been approved by the DAC;
  - (c) the colour of the new chairs has been approved by the DAC;
  - (d) a design for mobile screens to conceal the chairs and trollies not in use and a layout showing the location or locations of those screens, has been approved by the DAC;
  - (e) a sum equal to 80% of the total cost of those works, including the purchase of all the new chairs and associated trollies and screens, professional fees and tax, has been raised or promised to the satisfaction of the Diocesan Registrar;
  - (f) a contract for the supply of 320 chairs of the approved design has been entered into; and
  - (g) a scheme for the relocation and secure display of the chained Bible has been approved by the DAC;

and that those works are carried out in accordance with the details approved under paragraphs (b), (c), (d) and (g);

- (3) that any damage to the floor or the walls caused by the removal of the pews or the radiators be made good to the satisfaction of the DAC;

- (4) in relation to the removal of the tower screen and the installation of the new server,
  - (a) that no works are carried out until a detailed specification for the server (including a layout, and details of wiring and plumbing and drainage) has been approved by the DAC; and
  - (b) that those works are carried out in accordance with the details thus approved;
- (5) that the archaeologist employed by the City Council, or another archaeologist approved by the DAC,
  - (a) be given at least six weeks' notice of the start of the works, to enable an archaeological brief to be approved for submission to tendering contractors; and
  - (b) be afforded access to the church at all reasonable times before, during and after the completion of the works.

115. Any approval by the DAC referred to in the above conditions is to be in writing; in the unlikely event that it proves impossible to obtain such approval, the matter in question must be approved by the Court.

**Charles Mynors**

Chancellor, Diocese of Worcester

5 September 2019