

**IN THE CONSISTORY COURT OF YORK**

**PARISH OF THE MOST HOLY AND UNDIVIDED TRINITY, HULL**

**CHURCH OF HOLY TRINITY, KINGSTON UPON HULL**

**IN THE MATTER OF A PETITION REQUESTING A FACULTY for the major reordering of the nave amongst other works**

**Neutral Citation Number: [2017] ECC Yor 1**

**Between**

**The Reverend Canon Dr Neal Barnes  
Andrew Bassett-Scott  
The Reverend Irene Wilson**

**Petitioners**

**and**

**The Victorian Society**

**Objector**

**JUDGMENT**

### **Background**

1. Holy Trinity Church has stood at the centre of the Old Town in Hull for centuries. It was established 14 years before the grant of the Royal Charter in 1299. The oldest parts of its fabric are the transepts which were built between 1300 and 1320. The medieval font which is still in use dates from about 1390. Three 15<sup>th</sup> century screens survive.
2. Much else of what remains visible dates from the 19<sup>th</sup> century. That was a time of further development both in the town and in the church. It was in 1897 that Hull was granted city status. In the 1840s and 50s the church was substantially reordered under the direction of Henry Francis Lockwood who was subsequently to become more famous in the West Riding and in particular for the development of Saltaire. The churchyard wall was rebuilt in about 1870 following the sale of parts of the churchyard. George Gilbert Scott at the end of the century was responsible for the refurbishment of the choir and the refashioning of the remnants of the medieval chantry chapels at the south side of the south choir aisle into vestries.

3. In the following hundred years Hull went through periods of significant change. The fishing industry declined, many of the industries and services that depended on fishing disappeared, some docks were filled in, others became marinas and the focus of the old town, whilst still accommodating the offices of lawyers and accountants, moved to retail development and leisure. In recent years there has been a surge of confidence in the city, and 2017 will see Hull as the UK City of Culture for the year.
4. In the early part of this century Holy Trinity was in a state of serious decline. The annual Diocesan Directory shows a steadily decreasing electoral roll. The church was running on a budget deficit with decreasing reserves. The services offered were the basic Sunday morning pattern of 08.00 Holy Communion, 09.30 an informal service and 11.00 Holy Communion, with occasional special services arising from its civic role. Its future looked bleak.

### **The proposed development**

5. Sometime prior to 2013 a development group began to look at the potential development of Holy Trinity. The group contained some influential local business people who were willing to put up money to see the church transformed into a place which would be of greater benefit to the city. It was a group that did not initially understand the consultation processes such developments have to work through and it would seem from the documentary history I have seen that there were some difficult moments as the development group initially engaged with the Diocesan Advisory Committee (DAC) and the amenity societies.
6. After some early confrontational meetings, a very good working relationship was eventually developed with the DAC, which resulted in significant modifications to the original proposals, which modifications arose from an increased understanding of the importance of preserving the heritage whilst at the same time enabling mission and also guaranteeing so far as possible the future survival of the church as a worshipping Christian community.
7. Bauman Lyons were the appointed architects for the scheme. Woodhall Planning & Conservation were asked to prepare a Heritage Statement and a Statement of Significance. Consultation took place in relation to the proposals. I will deal later in detail with the various proposals that were put forward. Some were largely uncontroversial, but what was hugely controversial was the proposal to reorder the nave pews.

## Initial Responses

8. The various amenity societies and consultees responded over the months that followed their receiving notification of the proposals. As there have been several iterations of the petitioners' proposals all I propose doing at this point is to set out the general tenor of the responses of each of the consultees.
9. **The Victorian Society (VS)** - has been involved throughout the period of consultation. It was first sent a set of drawings in December 2015. It responded by saying "As the scheme is not yet finalised and we have not seen a final statement of need or significance, the advice we could give would be provisional. The fittings at Holy Trinity are of exceptional quality as individual pieces and in the contribution they make to the interior en masse. They are of commensurate quality with the Grade I listed building. The current proposals are likely to result in a great deal of harm to the significance of the building. Any justification for the removal of these fine fittings would need to be exceptional and set out in a very strong statement of need and significance." Since then they have maintained and developed that position and argument.
10. The **Society for the Protection of Ancient Buildings (SPAB)** voiced strong objections to the scheme being proposed in particular to the proposed removal of the nave furnishings which in their view was a significant collective contribution to the building's special-interest; they said that they strongly echoed the Victorian Society's observations with regard to "the quality of the fabric and furnishings, the unusual arrangement of the pews and the overall near intactness of this 19<sup>th</sup>-century reordering of the nave".
11. The **Ancient Monuments Society (AMS)** said that they agreed with the submissions made by many other groups to the proposals then being put forward. They did not feel it necessary to make specific representations of their own at that point.
12. **Historic England (formerly English Heritage)** has also been involved throughout and has been involved in the dialogue as the scheme has developed. They have always been broadly supportive of the proposals. They acknowledge that "the custom-made seating which has been in-situ for c.170 years and as part of a wider interior decorative scheme makes an important contribution to the character and historic interest of the interior". But they also "recognise the considerable work that has been undertaken by the parish during the past 3 years to articulate and evidence the need for a fully flexible space in the nave". Subject to there being a chart to indicate the amount of fabric that is to be retained and in which locations they supported the proposal for re-fabricating the pew ends into different

lengths of movable seating that could be moved easily with the assistance of a specially designed pew skate.

13. The **Church Buildings Counsel (CBC)** has also been involved throughout. Their most recent response is in an email dated 9<sup>th</sup> June 2016. They said that the use of the vestry on the north side to accommodate WC's and kitchen and a servery in the south choir aisle are all sensible. They considered the key areas for consideration as the remodelling of the pews, the new floor with underfloor heating and the west end narthex. In relation to the pews the CBC is content for the nave pews to be reduced to 12 rows but is concerned that this might only be a temporary proposal with there being an eventual total removal of these in any subsequent phase of the development. They question whether the proposed re-engineering of the choir pews would be practical in terms of moveability or accessibility for the less able. They also express concern as to whether future generations will pair the pews resulting in an awkward rhythm if that is not done. They propose a different way of managing that engineering.

## **The Petition**

14. After many months of consulting with the **Diocesan Advisory Committee** and making successive adjustments to the shape of their proposals, the petitioners received a "recommended" decision from the DAC on the 1<sup>st</sup> March 2016 and presented their petition to the Diocesan Registry on the basis of what the DAC recommended. The several elements of the "recommended scheme" are as follows:
  1. Dispose of the Trinity House and Corporation Pews and to re-configure the existing furnishings (Lockwood, 1840s) in the nave and aisles, including the nave choir stalls, making the greater part moveable and either modifying the remainder for use elsewhere in the building or salvaging the timber for re-use in new fittings and furniture in the re-ordered church;
  2. Remove the existing pew platforms and introduce new replacement solid floors throughout the nave and nave aisles to new uniform levels incorporating underfloor heating, and introduce additional radiators along the external walls and other heating;
  3. Re-create new, modified collegiate seating on platforms in eight bays of the nave aisles;
  4. Introduce into the westernmost bay a new internal west lobby with structural glass screens, fitted furniture and side hung doors to the north and south of it, new access to the crypt, and new storage cupboards;
  5. Re-locate the font on a modified base one bay to the east, and introduce an inscription into the floor on the existing site of the font;

6. Introduce new storage areas (incorporating re-claimed timbers) at the east ends of both choir aisles, against the outer faces of the screen walls to the sanctuary and (for chair storage) against the outer walls in the eastern bays of the nave aisles, together with the associated relocation of various memorials and furnishings and the introduction of new stackable chairs and storage racks;
7. Re-locate the mediaeval screen from the west to the east side arch of the north transept and introduce ramps to overcome changes in level within the transepts and crossing;
8. Re-decorate the interior;
9. Remove the existing WC at the east end of the vestries, introduce four new WCs and a kitchen, and make various modifications, all to the eastern vestries and associated spaces;
10. Re-order the choir aisles and re-arrange various memorials to create a new café/servery in the south choir aisle with associated new moveable furniture, tables and chairs, and a memorial chapel in the north choir aisle;
11. Dispose of various minor items of moveable and redundant furniture;
12. Introduce new wiring for the sound system and alarms; and
13. Re-locate various memorials from the west end of the nave and re-site various ledgers into the south transept, together with other consequential or associated works.

## **The Objection**

15. The public notice has attracted no objections from members of the public. That is significant as it means that no issue about “pew rights” whether statutory or otherwise arises to be determined in connection with this proposed re-ordering.
16. Of the statutory consultees, only the Victorian Society registered a formal objection. I will set out in detail the nature of their objection in due course. It was not surprising that others did not formally object given the attitude of the likes of SPAB and AMS which was to refer to the Victorian Society as the group with the obvious particular special interest. However SPAB said in particular:

“... in light of the increased pressure on the Church and the major impact the proposed scheme will have on the building, the Society felt strongly that it must comment on the Phase 2 proposals affecting the Nave. In our view, the collective contribution and significance of the existing fabric and furnishings form a major part of the building’s special interest. This nineteenth century seating/reordering is also, we understand, one of few schemes remaining largely intact and it is among the finest and best examples of its type in the country.

While we do not wish to formally oppose the present Faculty application, we do maintain our serious concerns about the proposals and the substantial harm that they would cause to the special interest of this Grade I listed building.

Further, we again fully endorse the Victorian Society's observations and advice, and all that they have conveyed in their letter of 23<sup>rd</sup> May 2016.

They went on in the letter to give further details of specific matters relating both to the pews and the flooring which concerned them and they commended the Victorian Society's suggested widening of the aisles as a possible solution.

17. On being served a Form 5 Notice, the Victorian Society chose to become a participating Objector.
18. I directed the Registrar to ask the Objector whether they were prepared to consent to the matter being dealt with on written representations. Their response was to decline to agree to that course. I therefore set up a directions hearing for the 18<sup>th</sup> October 2016.
19. On the 17<sup>th</sup> October 2016 the Objector indicated that they had reviewed the matter and would prefer the matter to be decided by written representations hoping "it will make it possible for a decision to be made on the faculty application more quickly and with less expense than otherwise would have been the case". I said I would consider that issue at the directions hearing.
20. The Petitioners indicated that given that there was no objection to many of the proposals they would be asking for an interim faculty for those non-controversial items at the directions hearing. The Victorian Society responded to that saying that they had no objection to that course being proposed.

### **Directions Hearing**

21. At the directions hearing on the 18<sup>th</sup> October the parties had agreed what they considered to be the issues involved in the contest between them, namely:
  - (i) Whether and to what extent the Victorian pews in the church are of exceptional architectural and/or historic interest;
  - (ii) Whether the special architectural interest of the church lies primarily in the building's medieval elements and actual proportions derived therefrom or whether the Victorian pews are of significant beneficial impact on the church's character;
  - (iii) What is the nature of the special historic interest of the church;
  - (iv) What is the effect of the proposed alteration on the character of both the special architectural and historic interest of the church;

- (v) To what extent would the removal of the Victorian pews constitute a loss of significance of a designated asset;
  - (vi) Whether there are any sufficient practical, liturgical or financial needs of the church to justify the change;
  - (vii) If any harm would result from the removal of the Victorian pews how serious would that harm be;
  - (viii) How clear and convincing is the justification to carry out the proposals.
22. I gave directions about the service of evidence and skeleton arguments. I said that I was prepared to deal with the matter on the basis of written representations and that I would give my reasons for being so prepared when the final judgment in the matter was given. I shall now set out my reasons for dealing with this petition on the basis of written representations.

### **Written Reasons**

23. When I dealt with my first contested Consistory Court matter in 1992 the approach of chancellors to this issue was much influenced by the then textbook which was revered by Chancellors almost as much as the Scriptures themselves, namely *Faculty Jurisdiction of the Church of England* by GH and GL Newsom 2<sup>nd</sup> Edition (1993) At p.87 the authors said about proceeding on written representations “It can be appropriate for cases where no facts are in dispute and the other differences between the parties are not wide. It is doubtful whether it should be used for really large cases...”
24. Since then the conduct of litigation generally has moved on considerably. Although the tradition and practice of oral advocacy remains strong, written advocacy has developed to a considerable degree. Not only that, but it is now customary in civil proceedings for witness statements to stand as the evidence in chief of the witness concerned. In deciding whether there was any advantage to be gained by holding a hearing and adding cross examination to the mix I bore in mind that in these proceedings there was no likelihood of any witness’s credibility being called into question. It was clear to me that of the issues the parties were proposing, there was little dispute about the significance of the heritage asset constituted by the layout of the nave pews and that the were therefore two issue that stood out beyond the rest. The first was the extent to which I could rely on the financial projections provided by the Petitioners and the second was my balancing of the strength of that need against the harm that would be caused to the significant heritage asset. As I contemplated the decision making process I would have to engage in I recalled a

moment in my pupillage at the Bar when Gilbert Gray QC, leading my pupil-master, was rebuked by the judge for a particular question he had asked the witness. With a smile GG turned to my pupil-master and said sotto voce "It's the question that matters not the answer". It seemed to me that knowing what questions were being posed by each side of the other was far more important in assessing their evidence than the oral answers they might provide if cross examined in public. Of course I have also considered whether there was a need from a public perspective for this matter to be ventilated in a public hearing. Undoubtedly there will be cases where the court will be dealing with cases which have excited public interest to such a degree that it is important that the public should be able to observe justice being done. This is not such a case. There has been no objection by any member of the public. I am not aware of any great press interest in the matter. Those principally concerned - the Petitioners and the Objector - know their own and their opponent's cases and will receive a written and reasoned judgment dealing with their evidence and arguments. In all these circumstances I concluded that nothing would be added to this process by a public hearing apart from an additional bill of significant costs to both parties and so it was that for these reasons I decided to deal with the matter on the basis of written representations.

### **Interim Faculty**

25. The other matter dealt with at the directions hearing was the question of the interim faculty for the matters that are not controversial. Again I need to give reasons for granting a faculty in relation to items 4, 5, 7, 8, 9, 10, 11, 12 & 13 in paragraph 14 above. It was agreed at the directions hearing that item 6 should be subdivided into two separate items:
- 6a. Introduce new storage areas at the east ends of both choir aisles, using a repositioned memorial screen, and against the outer faces of the screen walls to the sanctuary, together with the associated relocation of various memorials and furnishings.
  - 6b. Introduce new storage areas against the outer walls in the eastern bays of the nave aisles, for the storage chairs, and at the west end, together with the associated relocation of various memorials and furnishings.

As there was no objection to 6a it was agreed that an interim faculty would also extend to cover that matter, whereas 6b would be dependent on the outcome of the contested proceedings in relation to items 1-3 of paragraph 14 above. In short the reason for allowing these various works is that they make sense in any development of this church and they are not opposed by any of consultees, who on the whole have recognised the benefits that each item brings.

26. Item 4 is a new west lobby with glass screens enabling access to be controlled through doors on the north and south sides of the lobby for concerts and other events. Although the Objector preferred the original extension proposal as a less harmful way of meeting what they acknowledge is a sensible way of increasing income by providing a cafe and shop, they do not object to this proposal which is also broadly supported by both the CBC and Historic England.
27. Item 5 is the moving of the font one bay to the east. It will be moved with its surrounding tiles. It will remain on the central east west axis of the church. Again there is no objection and there is support from the CBC.
28. Item 6a is the introduction of storage areas at the eastern end of the choir aisles, paired areas against the outer faces of the choir screen at points where the screen is plain, There is a very clear need for storage in this church. The transepts and the aisles are currently used to stack and store chairs, tables and other items. There would be a significant gain to tidying up the church if there was storage of this nature available.
29. Item 6b is not agreed and is consequential upon the outcome of the decision in relation to the reordering of the nave pews. The proposal is for another pair of storage areas set against the eastern wall of the aisles, about eight feet from the eastern wall. It is proposed to set chapels against these new eastern walls created by the building of these storage areas. In the north aisle the memorial screen on the east end wall will be relocated onto the new 'wall'. It is intended that the north choir aisle will become a memorial chapel. It is intended that various war memorials, several banners and a number of items related to lost fishing vessels will be located in this area. It is proposed to move against the new 'wall' in the south aisle the Georgian communion table and screen which are currently situated in the retro choir. They will be set at the east end of the aisle which will become the new café area. This item is not included in the interim faculty. I will return to it in due course
30. Item 7 is the relocation of the medieval screen which will be repositioned in line with a similar screen situated in the centre of the church. It will also mark a change in levels. It is uncontroversial.
31. Item 8 - the redecoration of the church is also uncontroversial and is plainly a benefit.
32. Item 9 - is the remodeling of the current vestries and toilets to provide vestries, toilets and a kitchen which will serve the new café. This will be of significant benefit to the church. It will be a considerable improvement to the current layout of those vestries and toilets.

33. Item 10 is the proposed reordering of the choir aisles. I have already referred to the proposal to create a memorial chapel in the north aisle; the proposal in the south aisle is to create a café/server. In 2012 the National DAC Conference was held in Hull and a small formal dinner was successfully held in the south choir aisle. Again these proposals are seen by all as beneficial and uncontroversial.
34. Item 11 is the proposed disposal of various items of furniture which are redundant and of no particular significance. There is no objection to these disposals. Further to this the Petitioners have come forward with a list of 19 further items set out on a four page document with photographs which are items they would also wish to dispose of. The DAC have indicated that they have no objection to the original or the additional proposal. I direct that the petition be amended to add these additional items and I direct that they also may be disposed of. I am advised that the Diocesan Store does not wish to receive any of the items on either list. The petitioners may use their discretion in relation to these disposals, seeking where possible to raise revenue, but where they judge that is an unlikely outcome they may simply dispose of the item. They may put any income generated from the disposals into the general funds of the church.
35. Item 12 is the wiring for the sound system and alarms and again is a benefit to the church.
36. Finally it is proposed to relocate some memorials and more particularly some ledger stones from the west end of the nave to the south transept where they will provide a significant improvement to the floor area.
37. There were five provisos that the DAC had made when recommending these proposals. Each of the provisos was to do with the need for some more detailed specification being provided and approved before work commenced. I dealt with that by directing that in the absence of agreement being reached between the petitioners and the various specialist advisors then the matter would be referred back to me for further directions.

### **Pleadings and preliminaries**

38. Since the directions hearing, both parties have provided witness statements, skeleton arguments and other comments as directed. They are both to be commended for meeting the timetable and also for the clarity and focus with which they have presented their cases.
39. Finally since the service of all the written material I have visited the church. I did so on 19<sup>th</sup> December 2016. I was accompanied by Mr Phil

Thomas, former DAC Secretary and now buildings advisor for the diocese. He was able to talk me round the building and the proposals.

### **The substantive issues**

40. So I turn to the issues that I must decide. The parties in their agreed draft directions suggested a number of aspects to the heritage issue - first there is the quantification of the heritage value of the Victorian pews expressed in these ways - the extent of any exceptional architectural and/or historic interest in the Victorian pews; and whether the Victorian pews have a significant beneficial impact on the church's character beyond the medieval elements and proportions. Then there is the effect on that value of the implementation of these proposals expressed as - the effect on the character of both the special architectural and historic interest of the church; whether that effect constitutes a loss of significance of a designated asset; whether such a loss amounts to harm and if so how serious the harm is.

### **The legal approach**

41. *St Alkmund, Duffield* [2013] Fam 158 is the case that now guides chancellors in how they must approach any issue that arises as it does here as to whether a proposal that would negatively impact a heritage asset might still be permitted. The Court of Arches provided a framework for chancellors to help them in carrying out the balancing exercise when weighing the loss to heritage against other gains if the proposal will adversely affect the special character of a listed building. That framework consisted of 5 questions:
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 (see *Peek v Trower* (1881) 7 PD 21, 26-8, and the review of the case-law by Chancellor Bursell QC in *In re St Mary's, White Waltham (No 2)* [2010] PTSR 1689 at para 11). Questions 3, 4 and 5 do not arise.
  3. If the answer to question (1) is "yes", how serious would the harm be?
  4. How clear and convincing is the justification for carrying out the proposals?
  5. Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building (see *St Luke, Maidstone* at p.8), will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade I or 2\*, where serious harm should only exceptionally be allowed.

## The harm that will be caused if the proposal is permitted

42. The Objectors case has been consistent throughout. It was first adumbrated in December 2014 after they had been sent a set of drawings. Mr Tom Ashley responded to the Petitioners in a letter dated 16<sup>th</sup> February 2015 saying

“In its guidance note on *New Work in Historic Places of Worship* (2012), English Heritage suggests five criteria for the assessment of the significance of congregational seating:

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

The Statement of Significance acknowledges the pews to be, alongside the pulpit and lectern, “a near intact scheme from an important phase of early Victorian restoration” by an architect of major regional significance, *Henry Francis Lockwood*. The pews are intrinsically fine, featuring exquisite poppy-headed ends by *George Peck*; however, we would dispute the implication in the Statement of Need that it is only the “beautifully carved and striking carvings of the pew ends” that deserve preservation. More generally, the effect of the pews *en masse* is equally important, impressing with their sheer number, bringing richness and variety to the nave, offering a stunning, bravura display of craftsmanship, aesthetic coherence and historical intactness. The quality and intactness of the suite of nave furnishings at Hull Holy Trinity must place them among the most important survivals in the country of their period. The collegiate arrangement of the aisle pews is unusual and lends them additional significance. Any significant reduction in the nave seating would fatally diminish the coherence of the furnishing scheme and have a very damaging effect on the character of the church as a building of special architectural and historic interest, requiring an extremely high level of outweighing justification.”

43. In May 2016, following receipt of a business plan which they regarded as inadequate in its detail, the Victorian Society responded generally to the proposals in similar terms to that set out in Mr Ashley’s letter. In this letter dated 23<sup>rd</sup> May 2016 Ms Sophia Laird again referred to the 5 principles for assessing the significance of furnishings. She went on to say:

“Under each and every one of these factors the nave seating at Hull Holy Trinity scores highly. We agree with Historic England’s assessment that the nave seating “has a high level of aesthetic, illustrative and associative heritage value”. In fact it is of the highest quality; this is one of the best ensembles of nineteenth century church seating in the country.”” She then went on to quote from Mr Ashton’s letter to which I have already referred. Describing the proposed retention and remodelling of a number of the pews; she says “Even in ‘pewed mode’, the nave would have lost over half of all its furnishings. In ‘cleared mode’ there would be none of the historic furnishings in the nave, albeit some would remain in the edges of the nave aisles. At this point we should acknowledge the efforts that Holy Trinity has clearly made to make the remaining seating

movable, and to retain as many of the elaborately carved pew ends as possible, in order to mitigate the harm that would be caused. Nevertheless, the harm that would be caused is considerable.” She then refers to Historic England’s acknowledging that such a permanent loss “will cause harm to the significance of the building” but she goes on to say that “it is unfortunate that neither in this letter nor in its final response of 27 May 2016, does HE attempt to calibrate the level of harm that would be caused, which is a critical factor in the weighing of the balance its views on this would clearly have aided the Chancellor in his or her decision.”

She then goes on to say “The nave of Holy Trinity is an exceptional interior, with a coherent character of which a central element is one of the most magnificent and extensive suites of Victorian church seating in the country. Its loss, even with part of the furnishings retained part of the time in movable form, would cause serious harm to the significance of the church as a place of special architectural or historic interest. The sea of richly decorated oak which is the visual floor of Holy Trinity at present would be gone. Much of the time the nave would be filled with temporary staging and movable furniture of no interest; clearly a poor exchange visually. Even in ‘pewed mode’, the loss of visual coherence and over half of the furnishings would have a considerable visual impact. We note at this point the Duffield judgment’s guidance that “serious harm should only exceptionally be allowed” to Grade I listed buildings.

She then deals with the issue of need. Saying that the liturgical needs can be met in other places in the building and by a more flexible use of the nave being created by the removal of the Trinity House and Corporation pews. She says that the liturgical need does not justify the complete clearance of the fixed furnishings from the nave.

She then deals with the financial case for need. She says “There is no doubt that Holy Trinity is in a very difficult position financially. The church is of a vast size and expensive to maintain; the congregation, despite a recent rise, is very low, given its position as the principal Anglican Church of one of England’s great cities, and Hull has a small number of tourists by comparison with many similar cities. Holy Trinity has made a convincing case that its current financial situation is unsustainable. We note that even in its current configuration, Holy Trinity has staged concerts (from classical to rock and all things in between), exhibitions, drama productions, a banquet, fashion shows, real ale festivals, community events, markets and business events” over the last few years. Such efforts would clearly be made easier by an upgrading of heating, power, lighting and toilet/kitchen facilities, which is uncontroversial. The flexible space that we have suggested creating in the area of the choir pews and Trinity House/Corporation pews would allow much larger staging, increasing the range of concerts that could be held. However, to go much beyond this would require the facility to clear the nave, as the current proposals suggest. This would enable Holy Trinity to host events it cannot currently do, such as banquets in the nave.” She then addresses the business plan and questions much of what was then being proposed by way of projections of income.

She concludes by expressing sympathy for the team at Holy Trinity, “putting a mass of documentation together with very restricted resources. But in order to approach the necessary justification for the level of harm that these proposals would course, there would need to be a robust business plan demonstrating that there will be a good prospect of the radical reordering proposed making enough extra events profit, compared to the extra profit generated by a less radical reordering, that it would transform the financial situation of the church. The business plan submitted falls a long way short of this.”

In relation to the proposed new flooring she said “we have no objection to the moving of the font. We would like the central tiled aisle floor to be retained; it is characterful and reinforces the strong central axis; there is a strong danger the proposed relatively uniform Ancaster stone floor will appear relatively bland by comparison.”

44. The formal evidence in these proceedings for the Victorian Society has been provided by Mr Christopher Costelloe who has been a director of the Society since September 2012, and prior to which he was a Conservation Adviser for the Society for two years. In his statement he rehearses the history of the consultation and the responses of the Society, to which I have referred. He then goes on to express the views of the Society which they wanted to be given in evidence.

He says in relation to the pews: “The pews at Hull Holy Trinity are extremely handsome and of exceptional quality. These furnishings form part of the restoration undertaken by Henry Francis Lockwood. Lockwood was a native of Doncaster and practiced in Hull until the late 1840s. It was during this time he undertook his restoration of Hull Holy Trinity and installed the very fine pews. Lockwood later went on to form a partnership with William Mawson, and this partnership went on to design many well-known civic buildings in Yorkshire. Lockwood and Mawson mostly worked in Bradford and Leeds where they designed St George’s Hall, Bradford (1851 – 3, Grade II\*), Bradford Town Hall (1873, Grade I) and numerous other civic buildings in Bradford. They are also well known for their work on Saltaire, the mill and model village commissioned by Titus Salt. They designed the mill, surrounding town and most famously the Saltaire United Reformed Church. Saltaire was inscribed on the World Heritage list in 2001 as “the complete and well preserved industrial village of the second half of the 19<sup>th</sup> century. His textile mills, public buildings and workers’ housing built in a harmonious style of high architectural standards and the urban plan survives intact, giving a vivid impression of Victorian philanthropic paternalism.” Henry Francis Lockwood is an architect whose work is primarily in the Yorkshire area, but who produced much work of national significance.

Lockwood’s work on Holy Trinity is exceptionally fine. The nave is fully pewed with benches designed by Lockwood and carved by George Peck, a local Hull carver. The craftsmanship of the pews is of the highest quality and the pews’ ends depict different characterful figures such as green men, various human and animal figures and foliage designs. The arrangement of pews is very unusual in that the aisle pews are arranged in the collegiate style; we are not aware of another example of this in a church of this scale. The pews are Grade I quality fittings in a Grade I listed building; they are of appropriate quality to the church and their loss would rob the building of much of its character. The heritage statement accompanying the application also expands on the importance of the pews, stating: “his [Lockwood’s] work at Hull is of moderate-high aesthetic (architectural and artistic) significance and included examples of fine carving such as pew ends, by Peck... The arrangement of the pews with a partial collegiate style is also significant due to the rarity of this form in Yorkshire.”

He goes on to say that “it is the considered view of the Victorian Society that the pews at Holy Trinity are among the best ensembles in the country and that their preservation is important. There are no studies that examine church furnishings on a comparative basis nationwide. We therefore base our view on many years of experience assessing and examining Victorian furnishings. Collectively the staff and members of the Society and the members of its Northern Building Committee have an exceptional concentration of knowledge of and expertise in Victorian church interiors. While the mediaeval shell of the building is

historically and architecturally important, the pews and tiled floor give the building much of its visual interest and character .... While the pew ends are important and in the proposals the majority of these will be kept, the effect of the pews en masse will be lost. The interior is characterised by the pewed layout and this will be lost in the proposals. In addition, the loss of the tiled floor and replacement with bland oatmeal coloured stone would compound the lack of visual interest in the space. We have seen numerous reorderings in mediaeval churches where the pews have been removed and often the result is a large empty space devoid of the interesting character that is provided by the Victorian fittings. .... While the mediaeval shell of the building is clearly important, a large degree of the building's significance and character is derived from the Victorian fittings.

45. I also bear in mind that they are not alone in expressing such a view. I have already referred to what was said in the course of the consultation process by SPAB and the AMS. And I have taken into account the specific matters set out in SPAB's letter of the 8<sup>th</sup> August 2016.
46. It is worthy of note that the Petitioner's own heritage assessment recognises the significance of the heritage asset and the loss that will result from permitting this proposal. It is referred to by Mr Costelloe in the course of his statement as indicated above.
47. In its skeleton argument the Victorian Society brings all this together and concludes by asserting that "The evidence ... demonstrates that the Lockwood nave furnishings make a major contribution to the architectural and historical interest of Hull Holy Trinity."
48. There are in my judgment a number of elements to that contribution. There is the timing of the work – it clearly took place at a time when the Ecclesiological Movement was having an impact on the design, reordering and furnishing of Anglican churches. Then there is the particular designer – Lockwood was a person of some significance in Yorkshire, Hull being a place of his early work. Then there is the craftsmanship of George Peck who carved the poppy-headed pew ends. The complete infilling of the interior of the nave with these large dark pews is itself a significant factor, as is the collegiate styled side aisle pews. Finally the survival of the ensemble along with the pulpit for over 170 years, largely untouched is also an important factor. Itemising those significant features separately and seeing them together indicate that they singly, but more particularly together, make this pewed interior a significant heritage asset.
49. They are of course not the only features of the church that give it heritage value. The survival of this church from mediaeval times, through the centuries and particularly through the very significant bombing of Hull in the Second World War, is also significant. The Petitioners rely on their own Heritage Statement as to the significance of the medieval church. It is said to be the "the most important surviving medieval building in Hull. Its size and detailing

demonstrates the ambition and prominence of the medieval town.” Clearly this is also a very significant aspect of the church’s architectural and historical interest. There is something in what the Petitioners say when arguing that the removal of the fully pewed state to one which is more flexible will restore an element of the medieval feel to the interior of the nave. The medieval contribution to the heritage value of the building is much more than just a “shell”.

50. However given all that I have rehearsed of the evidence I have no hesitation in concluding that the loss of the permanent fully pewed state of the nave will be a serious loss to this aspect of the Victorian heritage which forms a part of the architectural and historical heritage of Hull Holy Trinity.
51. Having decided that the loss or harm will be serious I must turn to the fourth question in the Duffield framework, namely “How clear and convincing is the justification for carrying out the proposals?” And I must also bear in mind that “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.”

### **The petitioners’ justification for the proposed works**

52. The Petitioners say that there is a liturgical need, also a practical need, but above all they rely upon what they say is a dire financial need justifying their proposals. I will deal with these matters in turn.

### **Liturgical needs**

53. The Statement of Need provides an overview of the various forms of service that are held in the church on a regular basis. There are the weekly and monthly services, but also there are occasional special services held to mark festivals, and remembrance; also there are civic occasions and celebrations. Informal services of which there are two each Sunday currently take place in the Chancel but have outgrown that space and need a larger space but they cannot be accommodated in the nave because it is completely filled with pews which work against the seating patterns and open spaces that are required if those services are to retain their current successful style. The formal 11.15 a.m. Sunday service, it is said, would also work better if the congregation could sit nearer to the clergy and choir, if the choir could face more in the direction of the congregation and if there was better access for those in wheelchairs. Baptisms are now regularly held on Sundays at 1.30 p.m. catering for quite large baptismal parties which gather round the font. Their experience would be much improved if

there was more space around the font for the people to gather. In general terms the nave is very restrictive because it is completely filled with pews which give no flexibility at all for large events such as student and youth services and other forms of celebration type worship which would usually have a worship band at the front on a stage and would use data projectors and screens and other effects.

54. The evidence in support of this liturgical need comes in the witness statements of the Rev Canon Dr Neal Barnes, the Vicar of Holy Trinity and from the Rev Irene Wilson, who has been the Associate Vicar for the last two years.

Canon Barnes refers to the Statement of Need and gives by way of example a large Eucharistic service for 700 Roman Catholics in which a dais and altar had to be set up under the tower to allow sufficient space for all those who needed to celebrate and serve resulting in a dynamic, including visibility and the sense of fellowship, which were far from what one would ideally wish to achieve. He refers also to a baptism for a church family for which there was insufficient seating in the chancel but equally no possibility of accommodating the worship band, screen, projector and other items in the nave.

He gives evidence that in May 2017 the Archbishop of the York intends to designate Holy Trinity as "Hull Minster" in recognition of its role as a regional church. It is the intention that there would be many more large celebration services not only of the ecumenical type but also large celebrations of Christian worship for Christians from across Hull and beyond and from diverse traditions. In particular he has been approached by a national organisation that wants to offer a "Rock Eucharistic" but given the current fixed seating arrangements it is not considered possible to accommodate such events without completely altering their character.

The Reverend Irene Wilson speaks more generally in her statement of the difficulties created by the rigidity of the seating and also describes how the "poppy heads" make visibility difficult. She also describes problems for those in wheelchairs who feel very conspicuous when placed in the centre aisle and for some of whom not being able to sit with their families and/or carers is particularly difficult as some suffer with mental health issues and some with dementia. She is also concerned generally about those with visual impairment or hearing loss for whom the fixed seating with the high poppy heads and a step up onto the pew platform can cause difficulty and put them at risk when left alone in the church. Such people struggle to participate both in services and at paid events. She says that an 81-year-old is eight times more likely to go to church than a 21-year-old in the York diocese and that we should be making provision to accommodate older people who have additional needs.

She also refers to the benefit that would accrue from the installation of underfloor heating if the pews were removed and a new floor laid. She speaks of the benefit this would be to those who are frail, to wheelchair users and to young children and babies. It would ensure that all were comfortable in the building and encourage people to stay longer to enjoy what was on offer.

## **Practical issues**

55. The practical issues are to an extent those referred to in the evidence of Rev Irene Wilson to which I have just referred. There are issues of safety and comfort that she refers to.

She is also concerned from the health and safety angle about the proportion of people who attend in wheelchairs and for whom being placed in the side aisle can restrict their visibility. She says that placing them in the centre aisle restricts processions, and that there will be less risk of compromising fire exits if the wheelchairs could be placed in a designated area or amongst movable seating.

56. Another practical issue is that of visibility. This is one that affects the sight lines of those attending and sitting in the poppy-headed pews. Jane Owen in her witness statement produces a letter from Gareth Hughes about the restricted view caused in part by the pillars but “also due to the nature of the fixed pews. If they were able to move we could increase the numbers of full viewing seating as well as the partial viewing seating areas. It would also make disabled access possible fully to the stage, both for performers and for audience.” She says that the difference in capacity is 300 as against a potential 500, clearly a significant issue for those considering using the church as a venue.

## **Financial need and potential solution**

57. There is no doubt that this is a church in dire financial need. I have already noted the letter from Ms Laird of the Victorian Society where she said

There is no doubt that Holy Trinity is in a very difficult position financially. The church is of a vast size and expensive to maintain; the congregation, despite a recent rise, is very low, given its position as the principal Anglican Church of one of England’s great cities, and Hull has a small number of tourists by comparison with many similar cities. Holy Trinity has made a convincing case that its current financial situation is unsustainable.

58. Canon Barnes deals with the position in his statement in this way:

The budget for the PCC unrestricted accounts for 2016 anticipated a deficit of £76,000. That is despite reducing its diocesan share contribution from £55,000 in 2014 to £37,000 in 2016. That contribution does not meet the costs of deploying a full-time priest at the church let alone all the other services the diocese provides. The unrestricted reserves 12 months ago stood at £208,000. Unless greater income can be generated then those reserves will be depleted before the end of 2018. A number of aspects of the church’s work (e.g. youth and children) are funded by separate charities who have indicated that the church should not presume on their grants in perpetuity.

Lest it be thought that this is the result of some profligacy or mismanagement Canon Barnes says that the independent examiner has stated to the PCC on more

than one occasion that they have done all that they could reasonably be expected to do to contain their expenditure, they just need more income.

Canon Barnes also draws my attention to a recent report “Sustaining Major Parish Churches” which has described the position this way: 54% of Major Parish churches incur expenditure which exceeds their income. He also explains that as far as deprivation goes Holy Trinity is 12,757<sup>th</sup> out of 12,775 in the IMD rankings.

59. This theme is then developed in the evidence of Jane Owen who is described as the Operations Manager at the church, a position she has also held for some two years.

Her role she says is to increase the revenue of the church through events. The target set for 2016 was £24,000 to come from events and hire income. She expects to achieve that having achieved £17,000 by September, with £7185 forecast for the rest of the year.

Clearly at the moment she can only book events that can be fitted into the current layout of the church. There are she says a number of events who would have liked to come and use the church if it was a more flexible space.

She was responsible for the production of a business plan in June 2016 which provided some estimate of income for 2017 onwards. Since preparing that report there has been an increased number of bookings and enquiries for 2017. She has produced a schedule of those events. Set out in relation to each of them is the fee that will be paid if the event can be accommodated. The total hire income for these events is £47,300. However of that sum £25,500 is for events which depend upon the nave being clear of furniture in order to accommodate the event. There are a variety of events ranging from concerts (both secular and sacred) through dinners to food and drink festivals.

A number of these events are ones for which the church will provide catering and if the events take place there will be additional catering income to the church through the cafe.

She also produces two schedules of income the church anticipates receiving over the next five years, one with the nave pews remaining in situ, the other with the nave pews removed.

The first schedule is produced on the basis that the pews remain.

	2017	2018	2019	2020	2021
Net Income from Café sales	19,600	17,245	17,891	16,745	15,600
Visitor donations	15,600	16,000	16,500	16,000	15,000
Net income from shop	4,000	7,500	6,250	7,500	8,500
Net income from events	13,700	15,400	17,100	15,400	13,700
Less admin and operating costs	-21,120	-25,245	-26,391	-24,745	-23,000
Church income: collections, planned giving, sundry income	191,000	196,000	201,000	206,000	236,900
Church costs including diocesan share of £55k	-305,000	-320,000	-335,000	-377,000	-430,800*
Shortfall	-82,220	-108,100	-115,150	-155,100	-181,100

\*diocesan share of £60,500

If the pews remain she sees the event income rising from 22,000 to 26,000 and then falling away again over a five-year period. To that are added the other sources of income from visitor donations and the café and shop. When the income from these sources is added together and after deduction of operating

and administration costs there is a net contribution to the church's income estimated at £31,780 in 2017, the year of the City of Culture. In subsequent years it is estimated at between 12,000 and 18,850.

That contribution would be added to the weekly collections, the planned giving and other sundry income for each category a modest annual increase is foreseen and that will produce income growing from £191,000 to £236,900 over the five year period.

The church outgoings are assumed to be £55,000 per annum rising to 60,500 in 2021 as a contribution to the diocese, with overheads and salaries rising from 250,000 to £370,300.

The bottom line is that the church's deficit will steadily increase from 82,220 in £2017 to £181,100 in 2021.

Her second schedule is produced on the basis that the pews are removed and the nave is made capable of being a fully flexible space.

	2017	2018	2019	2020	2021
Net Income from Café sales	19,500	29,787	41,064	46,479	51,924
Visitor donations	25,000	52,000	75,000	104,000	120,000
Net income from shop	7,000	20,000	24,000	28,400	33,240
Net income from events	36,830	61,750	79,550	106,250	128,500
Less admin and operating costs	-29,400	-55,187	-75,064	-92,279	-105,924
Church income: collections, planned giving, sundry income	191,000	227,654	261,803	301,073	346,234
Church costs including increasing diocesan share	-305,000	-325,000	-345,000	-392,000	-445,300
Shortfall	-55,070	11,004	61,353	101,923	128,674

If the pews were to be removed she sees the picture developing very differently. She sees the event income rising from £47,000 in 2017 to £150,000 in 2021. Deductions of course must be made from that for overheads which grow from just over £10,000 to £21,500 over that period.

She also sees cafe sales rising significantly as of course would overheads and labour costs, the bottom line being a contribution of just under £20,000 rising to just over £50,000 over the five-year period.

She would expect to see visitor donations rise significantly, based on a rise proportionate to footfall and she would be looking to see £120,000 by 2021 from that source.

The contribution from shop sales she would see rising from 7,000 to just over 33,000.

The bottom line from these projections is a contribution to the church's income rising significantly year on year from just under £60,000 to £227,000 over the five years.

The result is that although she still anticipates a deficit in 2017 she would expect to see a surplus rising from £11,000 in 2018 to £128,000 in 2021.

60. Clearly, if these projections prove reliable then the future viability of this church will have been transformed.

## **The objectors' response**

61. The Victorian Society are very sceptical of these projections and their skeleton argument pulls no punches saying "these projections are not credible." They go on to say

"additionally many of the assumptions in the financial projections are unjustifiable. They represent what the parish hopes would happen, rather than being a prudent cold calculation of what is reasonably likely. While it is predicted that events income will rise to match that of Manchester Cathedral, no account is taken of the very different economic circumstances in central Hull. No explanation is given of the projected increase in cafe sales of 350%. No explanation, beyond hope, is given for the increase in visitor donations from about 1 pound per person to about 3 pounds per person within five years. No explanation is given for sundry income increasing by nearly a hundred thousand pounds within the same period."

62. The Victorian Society also attacked the petitioners approach by questioning why some of the events require a cleared nave and suggest that a number of the concert type events could take place in pewed nave if the Trinity and Corporation pews and choir stalls had been moved creating more space at the east end of the nave where larger staging than now could be erected. This is a suggestion that they have made since an early stage in the consultation – see the letter from Ms Laird.

63. They say in conclusion

"the parish has not made a convincing case that clearance of the nave would have a transformative effect on its financial situation. Its figures and projections lack rigour and credibility. While the parish clearly has major financial problems, it has not demonstrated the clearance of the nave is necessary to transform its financial situation; indeed on the evidence presented such a clearance would have little financial impact."

## **The petitioners' reply**

64. In response Canon Barnes says:

"A major part of the Victorian society's stance against our need for the proposed layout in the nave is in pointing out that we can already stage some events. This is true. But we cannot stage larger ones which bring in greater revenues. Evidence from Arts Council major portfolio holder, The Freedom Festival, shows this: the number of fixed pews with a clear view of the performance is severely limited. Throughout the land, cathedrals are able to host such events because they have no pews. What we have demonstrated in the last three years is the demand from external bodies to hold events at Holy Trinity. We have also demonstrated the ability of our church, and its staff and volunteers, to make the event successful. We are not taking a risk without having tested the market. We now need to grow."

He also says "Whilst the Victorian Society is keen to advise us which events could be moved to other areas of the church, and thus amend our potential

losses, they have no knowledge of the discussions which have taken place with the event organisers. It is simply not feasible for us to hire our venue and tell the organisers that they have to sell fewer seats or invite fewer guests. A capacity of 500 in the Nave is very different from a capacity of 120 in the Chancel. Our clients will take their business elsewhere.”

And “The Victorian Society claims that our financial projections are not credible and that our assumptions are unjustifiable. We refute this as our assessment of the demand for events and the success with which we have executed events, given our very limited resources, means that we could achieve substantially greater revenues if the nave pews were to be made movable. We would refer to the extensive justifications for all of the figures we use, which are based on a reasonable extrapolation of experience elsewhere, our own experience, and reasonable rates of year-on-year growth.”

Those “extensive justifications” are set out as footnotes to the second schedule. He then deals with four specific issues raised by the Victorian Society on the figures to which I have already referred. He answers as follows:

- “\* It is claimed that in comparing events income to that achieved by Manchester Cathedral, no account is taken of the different economic circumstances in Hull. In fact, Manchester Cathedral faces much greater competition than Holy Trinity, and our projections allow us five years to build up to the income achieved in Manchester. Moreover, Holy Trinity serves not just Hull, but the entirely different and very much more affluent demographic of the East Riding of Yorkshire. The comparison is entirely valid.
- ) Our cafe sales projection, showing a 350% increase in five years, is based on advice given to us by not just one, but two, companies of cafe consultants – Waring Stewart and the Apostrophe Group. Both have enormous experience. We might also note that the cafe is an entirely new business, so of course its early growth is expected to be considerable.
- ) A rise in visitor donations from £1 per visitor to £3 per visitor merely brings us into line with other large churches, and acknowledges that our visitor profile will change radically.
- ) Sundry income is income received by the PCC from a range of sources such as donations received from individuals and groups, legacies and similar sources. As the church grows, becomes more active, and more prominent in society it would be impossible to imagine that income from such sources would not increase in step with that growth.”

## **Discussion and decision**

65. How should I approach this division of opinion between the Petitioners on the one hand and the Objector on the other hand as to (i) the real necessity of their stated needs and (ii) the reliability of these financial projections?
66. I begin by saying that I accept the integrity of the Petitioner witnesses and have no reason to doubt the honesty of the statements they make.

67. As for the **liturgical need**, it seems to me that although the Petitioners make a case for more flexibility generally and then particularly for the need to be able to cater for more celebratory style events, there is force in the Objector's questions as to why that cannot be achieved by the more limited intervention they would be prepared to tolerate, namely the removal of the Trinity House and Corporation pews and the remodelling of the choir pews to create space at the east end of the nave and under the tower. With such an arrangement a stage could be set up when required and there could be a variety of arrangements of the furniture. The suggestion of increasing the aisle widths would deal with some of the wheel chair issues. In the end I am not persuaded by the weight of the evidence produced by the Petitioners in support of their argument on this point. That is not to say that liturgical needs could not justify such a loss, simply that I am not persuaded on the evidence produced to me in this case that it would be justified now in this instance.
68. I turn next to the **practical needs**. To an extent these play into both the liturgical and financial needs, although they have a value of their own particularly in relation issues of health and safety. Again, taken on their own or linked into the liturgical need (eg it would be more comfortable for babies and young children to enjoy a warm heated floor), I am not persuaded that there is sufficient evidence of sufficient weight to justify the removal of the pews wholesale. Again it may be that the concessions the Objector would allow would meet much of that need.
69. However there is an element of practicality which is related to the financial need which is the evidence of what the potential hirers of the cleared nave have said as to their not being interested in using the church as a venue if they have to work round the current arrangement, even if the Objector's concessions were allowed for. As I have already said I accept that evidence. I accept that the Petitioners' team, specifically Jane Owen, has had detailed discussion now over many months and has established that there are a number of organisations which want to hold events in the nave of this church but for whom the current sight lines, or the cost of staging over and around the pews is prohibitive and will prevent them asking for use of the nave. To that extent this is a significant need for change if the financial projections are reliable enough to establish the possibility of making this church self sufficient and viable for the future.
70. That makes my assessment of the **Petitioners' financial projections** absolutely critical. When it comes to that assessment it seems to me that I must first look at the methodology they have used to put together their projections. It is clear to me that they have engaged in consultation with reputable people and bodies. They have liaised with other churches such as Beverley Minster about shop takings and Manchester Cathedral about event bookings. They have sought the

advice of highly respected cafe operators in the secular world. But above all else they have been discussing with event organisers in Hull and the East Riding what their needs are and what the church can provide in the form of a venue both now with its existing layout and potentially in the future with the possibility of a cleared nave. It is common knowledge that there seems to be a growing desire by secular organisations to use the vast open spaces of the naves in cathedrals or large churches for events such as dinners and commercial fares.

71. It is also clear to me in what I have read over the recent months that there is in this church a team of dedicated clergy, managers and volunteers who are determined to keep the church open and viable so that they can fulfil their missional purpose in the City of Hull and in the wider county and diocese. They do not see these events as being what they are there to stage, but that in order to remain viable and to do mission they need to stage a significant number of events successfully each year.
72. One of that staff team is the Reverend Matt Woodcock. He served his title at Holy Trinity from 2011. His role is now described as that of a Pioneer Minister. He has recently published an autobiography part of which has been reproduced in the Daily Mail. My attention was drawn to this article by the Church of England Daily Media Digest on the 5<sup>th</sup> November 2016. It recounts a number of the more unusual events he has organised in the church over recent years. Reading the article I was struck by the following diary entry in which he describes his first meeting with the newly appointed vicar with a view to his potential curacy:

**THURSDAY, JULY 22 2010**

I instantly liked the Reverend Neal Barnes when I met him at his vicarage in Hull today. He's kind, gentle, honest and wonderfully uncool. He reeked of Radio 4 and gardening. His church is haemorrhaging cash. There's little going on apart from Sunday services, virtually no community engagement and congregation numbers have declined. I said I loved a challenge.

It is clear to me that since 2010, under the leadership of Canon Barnes a team of people, including the Rev Matt Woodcock have come together with a determination to see a church grow and to do mission in the heart of this city. However, if there is to be continued growth and a continuation of that mission they have to turn round the position from that of haemorrhaging cash into one where there is across the board a sufficient income to finance the staff team, and to ensure the continued maintenance of the fabric so that they can give their energy to bringing the gospel to the city of Hull and the East Riding.

73. The question for me is whether I am satisfied that they have established that they can do that.

74. What is the standard of proof I must apply? It is not the criminal standard of being sure beyond reasonable doubt. It is being satisfied that something is more likely than not to be the case. I also bear in mind the many dicta to the effect that the weightier the matter to be established the more cogent the evidence that is required to establish it.
75. Approaching matters in that way I find myself satisfied the petitioners have approached this matter responsibly, cautiously and looking for advice from those best equipped to provide it. They have looked at steady growth of sales over a five-year period of time. They have made perfectly acceptable assumptions that as the church becomes increasingly known as a place where things happen they can expect other interest and income to grow as well. Nothing that they have projected seems to me to be outside the achievements of other large churches and cathedrals who in recent years have allowed their buildings to be used in the sort of way now envisaged for Holy Trinity, Hull.
76. Even if the margin of growth is not as great as they predict, I have no doubt that if they are able to allow the church to be used for the sort of events that they envisage taking place there, then that would enable the church to balance its books and pay its way in the future. I equally have no doubt that if they are not able to produce a cleared nave as an attraction for events they will struggle to grow their income from venue hire, café and shop sales, and that they will continue to operate at a significant deficit.
77. That then brings me to the final question which is whether the various gains, liturgical practical and financial will justify what is clearly a serious loss to the Victorian heritage asset which the fully pewed nave provides.
78. In considering that matter I bear in mind that contrary to the original thought of the development group of simply clearing the nave, there is now a proposal which will retain all the Peck carving. Much of it will be on display in reordered pews, both in the collegiate side aisles but also in the arrangement by which 12 rows will remain to be positioned in the church on a regular basis. The collegiate side aisles will be reduced from three to two rows which will be permanently in place. When the nave is in unpewed mode a number of the nave pews will be placed at the front of the collegiate pews creating three rows. Indeed Ms Laird acknowledges this in the quotation I have provided from her letter in paragraph 43 above. The intention of the petitioners is summed up in the words of Mark Coates, project manager from Alan Wood & Partners, consultants to the Holy Trinity Development Trust:

“Our plan is to ensure they (the carved pew ends) retain their heritage significance and are properly curated and exhibited. They may not be in the positions intended by the Victorians who installed them, but we believe them to be in a much better position and will draw attention to them through guides and exhibitions. We will be maintaining the ensemble but in a new form. In addition we will have returned a greater part of the nave to the open space intended by its medieval architects.”

79. Much of what I earlier identified as the heritage asset will remain – the fact of a nineteenth century reordering spoken to by the side aisles, and the remaining reordered smaller ensemble of pews, the role of Lockwood in designing it all, and the masterly carving of George Peck fully retained. What will be lost is the ensemble of pews which fully fills the nave, creating the “sea of richly decorated oak”, and its historical intactness. However I am satisfied that if that were to remain in its present form, then the church would have no prospect of becoming financially viable, putting at even greater risk the Victorian heritage asset.
80. If the current team is able to achieve financial viability then for the foreseeable future this church will remain open, active, and a centre for worship and mission – as Hull Minster - and if so then increasing numbers of people will visit it, will see the Peck poppyheads, may even learn who Lockwood was, and will have an opportunity to learn about the Victorian revival of liturgy and church furnishings.
81. The Victorian Society is quite right about the significance of this fully pewed interior and the loss from a pure heritage viewpoint that will result from what I propose to allow, but I am quite satisfied that if I do not permit this development then it will be a significance that will be unlikely to be appreciated except by aficionados on tours by appointment or those reading of what might have been.

### **Some remaining details**

82. So I need to consider some of the detailed issues of the proposal.
83. It follows that item 6b in the list of proposals (see paragraphs 14 and 25 above) will be allowed. There was no objection to the creating of the two chapels with the storage space behind the false ‘walls’ at the east end of each choir aisle. It is good use of the space both in relation to storage and the two chapels, one a memorial chapel and the other a ‘chapel’ at the east end of the café.
84. It also follows that the proposals in paragraphs 1-3 of petition proposals set out in paragraph 14 above will be allowed in relation to the Trinity House, Corporation and Lockwood pews and for the making of moveable pews for use in a re-ordered church and including the recreation of new modified collegiate seating on platforms in the

nave aisles; and for the re-use of the timber from the pews elsewhere in the building in new fittings and furniture.

85. The floor. The Victorians and SPAB were not in favour of the Ancaster stone floor, wishing to keep the central aisle of tiles. The tiles are not of particular historical or architectural significance. It is intended to keep the tiles which surround the font when it is moved one bay eastwards. Both the CBC and Historic England supported the new paving design with the CBC making some suggestions about varying the width as well as the length of the stones. To retain the aisle would not in my judgment make sense. The design of the floor with the different coloured stone marking the lines of the pillars, both east/west and north/south is designed to go with the logic of the architecture of the building rather than with the logic of the furniture. Given the proposed transformation of the use of the nave, the proposed new floor follows logically.
86. The new floor will enable “service trenches” around each of the pillars for cables and electrical connections.
87. Linked to the new floor is the proposed under floor heating, with some additional radiators along the external walls. This will not only heat the nave, but I am led to understand that it will have an impact on the whole building, which will mean that it will not be necessary to interfere with current arrangements for heating the East End and the Chancel.
88. For all these reasons I am satisfied that the proposed flooring and under floor heating proposals should be permitted.

### **Future applications**

89. I note the concern of the CBC that this might only be a phase of the development of the building and that there could come a subsequent phase when the church would ask to remove all the remaining pews. Obviously I cannot ever say what would happen in any subsequent petition. However it will always have to be noted that a part of the justification for my permitting this degree of significant heritage loss has been the commitment of the petitioners to keep more than just a memory alive, but to curate and exhibit the significance of what remains. It is a significant body of the original which will remain and which the petitioners have committed themselves to maintaining.

Canon Peter Collier QC  
Chancellor

New Year's Day 2017