

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK

RE: ST MARY MAGDALENE, REIGATE

INTERIM JUDGMENT

Introduction

1. This matter concerns the petition of the Revd Philip Andrew, Jonathan Silcock¹ and Margaret Edwards, respectively the Vicar and Churchwardens of the parish of Reigate. The petition is dated 13 July 2009 and in it they seek permission for a major re-ordering of the interior of the historic parish church of Reigate. The petition is supported by resolutions of the PCC passed on 24 September 2008 (in respect of the proposals as originally constituted) and on 30 March 2009 (in respect of the proposals in their amended form now before me).²
2. As set out in the petition, the works for which authorisation is sought are as follows:

Internal reordering of the church to include: removal and disposal of existing pews; removal of dado panelling along north and south walls of nave; provision of new chairs and liturgical furniture throughout; removal of timber pew platforms in nave; provision of replacement timber flooring in part of nave; new timber steps and platform lift to chancel, new timber flooring in part of chancel; removal and disposal of existing communion rails; relocation of the central section of the rood screen to the entrance to the sanctuary; creation of chapel within the existing sanctuary area; revisions to existing heating system; installation of new audio/visual and lighting systems; redecoration of interior; minor revisions to the existing kitchen to include the installation of double oven; provision of additional storage cupboards; sundry repair work; minimal works to the Pickard vestry, flower room, organ room and clergy vestry.

¹ Mr Silcock stood down as church warden in November 2009. On 25 April 2010, Mr Anthony Dobbin was elected church warden in his place. I am happy for Mr Dobbin formally to be substituted for Mr Silcock as petitioner.

² The first resolution was unanimous and I think that the second was also.

The major works involved in the reordering – and to which objection has been made – involve the relocation of the central section of the screen, which currently spans the width of the church, to create a new chapel at the east end of the church; and the replacement of the pews in the nave with chairs.

3. The petition is accompanied by appropriate drawings which have been prepared by HMDW Architects Limited. The particular architect who has been involved is Mr Russell Hanslip Dip Arch RIBA who is the Church's Inspecting Architect. The petition is also accompanied by a helpful document entitled *Church Reordering Project: Project Outline* (September 2008) in which was incorporated both the *Statement of Need* and *Statement of Significance*.

4. In accordance with rule 6 of the Faculty Jurisdiction Rules 2000³ notice of the proposals was given by a notice displayed on a notice board inside the church and on the principal door of the church between 1 July 2009 and 29 July 2009. Letters of objection were received from:
 - Mr Jeremy Ballard of 29B Hatchlands Road, Redhill, Surrey RH1 6AB.
 - Mrs Barbara Curry of 15 Pilgrims Way, Reigate, Surrey RH2 9LE.
 - Mrs Christine Freeman of Willows, 7 Evesham Close, Reigate, Surrey RH2 9DN.
 - Mr K Freeman of Willows of 7 Evesham Close, Reigate, Surrey RH2 9DN.
 - Mrs Gill Utting of Heatherbrae, 16 Smithy Lane, Lower Kingswood, Surrey KT20 6TT.

³ SI 2000 No 2047. Hereafter, references to individual rules are to the rules contained in the Faculty Jurisdiction Rules.

Mr Ballard's chief concern is with the proposed replacement of the pews. Mrs Curry, Mr and Mrs Freeman and Mrs Utting are chiefly concerned about the creation of a new chapel in what is currently the sanctuary at the east end of the church.

5. In accordance with rule 16(3), the Registrar wrote to these people asking if they wished to become parties opponent to petition. None of them did. However I shall of course take their objections into account in reaching my decision.

6. The petitioners also sought the views of the following bodies on the proposals:
 - English Heritage
 - Reigate and Banstead Borough Council (the local planning authority)
 - the Reigate Society
 - the Society for the Protection of Ancient Buildings
 - the Victorian Society
 - the Council for the Care of Churches.

7. Of these, Reigate and Banstead Borough Council, the Reigate Society, the Society for the Protection of Ancient Buildings and the Victorian Society had objections to the proposals. The Society for the Protection of Ancient Buildings and the Victorian Society decided to become parties opponent.

8. The Society for the Protection of Ancient Buildings objects to the relocation of the central section of the chancel screen. The Victorian Society likewise objects to the relocation of the central section of the chancel screen and, in addition, to the removal of the nave pews.

9. Reigate and Banstead Borough Council has set out its views in letters dated 28 July 2009, 19 August 2009, 24 March 2010 and 26 May 2010. Its principal concern is with the relocation of the central portion of the screen, but it is also concerned about the loss of the pews as well as raising a number of points of detail.
10. The Reigate Society had a number of detailed concerns but expressed the view that *it was generally content with the revised scheme* and in particular did not object to the relocation of the central part of the screen. However, in the light of further information about the screen that was generated by these proceedings and which became available to it, the Society does now object to the relocation of the central part of the screen.
11. English Heritage does not object to the proposals. It has set out its views in letters dated 23 July 2009, 4 June 2010 and 30 June 2010.
12. The DAC has recommended the proposals, having considered the matter at a meeting on 7 April 2009.⁴
13. No-one requested that there should be a hearing and, accordingly, I have decided this matter on the basis of the written representations. I raised a number of matters on which I requested assistance in my initial directions on 1 October 2009 and also in my further directions dated 1 April 2010. The responses to these requests have much assisted me. Dealing with the matter on the basis of written representations has, of course, the great advantage of saving the parties money. However, in a complicated

⁴ Further details of the DAC's involvement are set out at paragraphs 25 to 26, 31, 33 and 38 to 40 below.

case like this, it seems to me that in some ways it makes my task more difficult. I am conscious this judgment may contain some minor errors or misunderstandings which might have been clarified at an oral hearing. Such a hearing might have served also to narrow some of the issues. Nonetheless, I am confident that through consideration of the extensive written material submitted to me I have identified the main issues and have been able to form a clear view upon them.

14. Throughout the development of the proposals, the PCC has sought to maintain high levels of communication and consultation – through leaflets, displays at the back of the church, information on the church’s website and by holding open evenings. It is commendable that this has been done, and I note that although there are a number of people within the congregation who have objected, they do not object (as sometimes happens, unfortunately) in respect of the way that the proposals have been brought forward. I understand from Mr Andrew that there has been overwhelming support for the proposals within the church family.

15. I visited the church on 25 March 2010. At that visit, the representative of the Society for the Protection of Ancient Buildings, Mr David Alexander MA MRICS CBS, said that he required more detail in respect of the proposals as regards the screen. This was in his view particularly relevant in respect of assessing the risk of damage to the central section of the screen if it were moved as well as in respect of a potential aesthetic objection to the relocated screen. In my Further Directions, I asked that Mr Hanslip and Mr Alexander should meet on site to see what they could sort out with a view either to matters being resolved or an agreed statement of disagreement being drawn up. Such a meeting did take place; Mr Hanslip has prepared a further, detailed, plan; and an

historic buildings consultancy, Oxley Conservation, has prepared a *Report on the Viability and Methodology of Dismantling the Chancel Screen at the Church of St Mary Reigate* (May 2010). The Society for the Protection of Ancient Buildings had the opportunity of commenting upon this material and have done so.

16. I attended the 10.30am service at the church on Sunday, 15 August 2010.

Reigate Parish Church

17. The church is dedicated to St Mary Magdalene. A Grade II* listed building, it is a big town church consisting of three aisles with a tower at the west end. It experienced two major restorations in the nineteenth century, the first by Henry Woodyer and the second by George Gilbert Scott Junior. The first was in 1845 and involved repairs to the chancel – the sedilia and piscina were renewed, the reredos was restored⁵ and new stained glass was fitted. Woodyer also restored the “mutilated” rood screen.⁶ The second was in 1874-7 and involved new roofs, repairs to the North arcade, rebuilding the South arcade “stone by stone”, refacing the tower and providing it with a new top, providing a new east window, a new reredos and new pews.
18. The interior reflects the Victorian restorations and a re-ordering scheme that was carried out in 1983-4. The church is entered via the west door and the visitor sees in front of him in the nave Victorian pews on either side of a central aisle, and pews shorter in width in the north and south aisles. The pews do not extend to the west end of the church, leaving a cleared area at the west end. As far as I can see, there were

⁵ This by Willement.

⁶ See *Henry Woodyer: Gentleman Architect* Elliott and Pritchard (eds) (2002) at pp 60, 232-3. The information that the screen was *mutilated* is derived from the *Ecclesiologist* V (1846) p162.

pews in this area until the 1980s when they were removed as part of a larger re-ordering scheme (see further below).

19. At the end of the nave is a wooden screen. This spans not just the central aisle but also the north and south aisles. The screen is at the level of the chancel, which is at a higher level than the nave. In the 1980s a platform was built out from in front of the screen, on which, for Eucharistic services, is positioned a Holy Table. The platform is accessed by three steps and, to facilitate use of these steps, two handrails have been installed which are aligned to the central aisle. The area behind the screen – what historically would have been the chancel – was cleared of fixed furniture in the 1980s re-ordering and now contains chairs. These are orientated to face west (i.e. down the chancel) for the main service on Sunday. At the very east of the church, beneath an east window, is a Holy Table in front of a reredos. A sanctuary area is enclosed by a communion rail. TV-style monitor screens have been installed in suitable locations to assist those whose sight lines would otherwise be obstructed to see what is going on more centrally, and these also display the words of worship songs and other visual aids to worship.

Service pattern and use of the church

20. On Sundays, there are services at 9am, 10.30am and 6.30pm. The 9am service is Holy Communion according to the Book of Common Prayer. The 10.30am service uses Common Worship: on the first Sunday of the month there is an “all age service”; on the second and fourth Sundays, Holy Communion; and on the third Sunday, Morning Prayer. There are groups for children on the second, third and fourth Sundays so that they do not attend the whole service. The 6.30pm service is a more contemporary

“service of the word” –with Holy Communion on the first Sunday. There are between 25 and 35 baptisms per year and typically about 6 funerals.

21. The church is used by three schools. Reigate Grammar School holds three assemblies per week; Reigate St Mary’s Preparatory and Choir School holds two assemblies per week and its choir sings Evensong twice a week; the Church (Voluntary Aided) Infant School holds a number of services in the church each term.

22. There are a variety of occasional services (including scouting services), school concerts, and orchestral and choral events on an ad hoc basis.

23. There are 510 people on the electoral roll, this being an increase over 2009 and 2008, when the figure was 468 and 443 respectively. Attendances at services have shown a comparable increase. As regards the great festivals, the position is as follows:

	9am	10.30am	6.30pm	Total
Christmas Day				
2007	35	442	-	477
2008	31	492	-	523
2009	38	523	-	561
Easter Day				
2008	56	547	-	603
2009	55	526	79	660
2010	43	584	98	725

24. In 2009, on one occasion an attendance of 526 at the 10.30am service was recorded; on six occasions an attendance of more than 400 was recorded. The average attendance was 318. As regards special services, because of their popularity two Christmas Carol

Services are held “back to back”, and an attendance of 714 was recorded last year. The same arrangement is made in respect of the Christmas Eve Christingle services, which 846 attended last year. In today’s world, all these figures are remarkably high. They are a tribute to the Vicar, his staff and the worshipping community of the church.

Background to the proposals

25. In their *Project Outline*, the Petitioners say that in the late 1960s or early 1970s, the then Bishop of Southwark, Rt Rev Mervyn Stockwood, addressed the PCC and said that he would be happy to support the removal of the screen. The Parish did not pursue the idea at that time, but it did consider it in the late 1970s, when it appointed Mr Robert Potter FRIBA FSA as church architect. After consultation within the parish, the PCC put suggestions to the DAC involving the removal of the screen. On 12 March 1981, the DAC wrote to Mr Potter as follows:

With regard to the reordering, the DAC once again gave very careful and detailed consideration to the question of the screen. As I have indicated in my earlier letters, the Committee accept that the screen is of outstanding historical importance and there could be no question of contemplating its removal purely to provide improved facilities for performances of music and drama. The only ground on which removal or partial removal could be contemplated would be liturgical, and the DAC have given very careful consideration to this aspect. The Committee however, came to the conclusion that as there are viable liturgical alternatives available they could not recommend removal of the screen in whole or in part. In view of the importance of the matter, the DAC took the unusual step of taking a vote and a resolution to this effect was passed nem con with one abstention.

26. The PCC then asked what “viable liturgical alternatives” were available. The DAC considered the matter further and wrote to the PCC as follows:

With reference to your request for clarification of the liturgical alternatives discussed by the Committee, the one which found unanimous support was to revive the ‘nave Altar’ scheme suggested by Mr Laurence King and which was under discussion during the incumbency of Canon Baker. This would involve constructing a platform to form an ‘apron’ west of the Screen, probably on the level of the top step.

*The Holy Table (probably **not** the existing one in the East end, which forms a focal point visually) would stand on this platform for celebration of the Holy Communion, and at other times as desired (emphasis in original).*

27. This then led to a re-ordering scheme which was approved by my predecessor, Garth Moore, in 1982. This scheme was controversial and the Chancellor held a hearing at which it was considered. It was explained by the then Vicar as follows:

Let me describe it to you and the reasoning which lies behind it. When we sought the removal or re-siting of all or part of the screen, we were told by the DAC (11.12.80) "That the church is bicameral" — i.e two roomed. As a result we have tried to see how best we can use these two rooms in our church today.

In the Chancel there is a haphazard collection of pews on 3 different levels. Potentially this is a very useful area, but its present furniture and floor levels make general use impracticable. To remove the existing pews and to raise the floor to one level would give this area great potential; with flexible seating 150 people could assemble for some of our smaller services; and on Festivals when the church is crowded with people these chairs could face west and the part of the congregation in this area would not only be able to see into the nave, but also feel united with the main body of worshippers. This area would also be superb for large choral and orchestral works.

The current scheme

28. As has been seen, the solution to the then existing need that the DAC put forward in 1981, and which was adopted in the scheme approved in 1982, respected the existing bi-cameral form of the church. It was envisaged that the congregation would generally be seated facing east in front of the screen. It will, however, have been noted that, even then, the Vicar identified one of the benefits of the cleared chancel area as being somewhere which could accommodate the "over flow" from the seating in the Nave on Festivals and for special services.

29. In the years since the 1980s re-ordering was carried out, St Mary's Reigate has been a very successful church. Typically a congregation exceeds 400 and on occasion numbers reach 550. This means that on a regular basis the chancel is used to accommodate worshippers. Although this may be something that is acceptable on an occasional basis, it is evidently far from ideal. The situation is described in the *Statement of Need* as follows:

There are exceptionally poor 'sightlines' in the Church, with substantial numbers of worshippers being unable to engage with the service leader, and with each other. Perhaps inevitably in a church building which has been added to and modified over the centuries, the church internally has something of a 'disjointed' feel to it, especially between the chancel and the nave, with a large and imposing rood screen separating the two. The current arrangement imposes significant restrictions on our worship, specially for our larger Sunday morning services when seating in both the nave and the chancel is inevitably in use. The current pews seat between 200 and 250 people, meaning that the additional worshippers are seated on a variety of chairs either in the chancel, hidden behind the rood screen, or on temporary chairs in the nave at the back of the pews. This arrangement results in a very disjointed feel (with a strong sense of 'us' and 'them' between the nave and chancel) that does nothing to draw us together as a worshipping community. This is especially true for those in the chancel, from whom liturgical action on the dais is largely obscured. The current arrangement also speaks very loudly of an outdated and hierarchical understanding of the liturgy quite out of place in the church of today.

30. As regards the pews, the solution is described in the *Statement of Need* as follows:

The fixed pews are problematic in terms of worship for at least 3 reasons. First, in terms of comfort: The current pews are often described as some of the least comfortable pews people have ever experienced. They are a positive disincentive to any lengthy services, and are an agony for anyone with back problems. Secondly, the way the pews are placed in the Church makes it difficult for worshippers to engage with each other, since they are in the main looking at the backs of other people, rather than at each other! Thirdly, the rigidity inherent in fixed pews means that it is difficult to experiment with alternative layouts during the course of services. This rigidity is a particular handicap at services in which we want to involve children, for example, the monthly Family Service in the Church, where the deficiencies of the Church's current furniture and sightlines are particularly obvious. It is not only at Family services, however, at which flexibility would be an advantage. To be able to have different arrangements for services as different as an informal evening communion for 60, the baptism

of an adult, a Carol Service, a youth service, a Taize style service a church prayer meeting a 24/7 prayer event etc etc would be hugely beneficial.

As well as limiting our worship, the pews prevent us making better use of the church space after the formal act of worship during a Sunday service has ended. At the end of our Sunday services we serve several hundred cups of tea and coffee each Sunday. Our experience is that this is a vital time in a large church to build a sense of community and belonging. At present pews severely limit the amount of space available for this activity. Our proposal to replace the pews with chairs that will stack will easily open up the opportunity to make much better use of the church space.

In terms of our mission to the town, we believe the pews do not serve us well. Whilst it would be only right to acknowledge that some within the wider community will see pews as 'part and parcel' of what should be in a Church, few who feel strongly seem to rush to spend time on them! More significantly, pews stop us using the Church for other purposes throughout the week including events that might draw some of the wider community into a church building.

We are convinced that the proposed arrangement for uniform chairs across the church would bring considerable benefits to us in terms of our Sunday worship, and would give us the flexibility we desire to use our building in different ways to meet the diverse needs of our church family. The current pews have, we believe, outlived their usefulness, and have become an impediment both to worship and to mission. Nor do we consider that their removal will be detrimental to the beauty of the building. Indeed we believe the opposite to be true. A uniformity of (carefully selected) seating will have a very positive impact on the aesthetics of the interior of the church and give a much increased sense of order and awe and integration, over the cluttered feel of three different forms of seating. It might even be argued that the removal of pews is more in keeping with the history and architecture of the building.

31. It is these concerns about the screen and the pews that have led to the formulation of the present scheme. At an early stage the Parish consulted the DAC. The DAC visited on 12 January 2008 and looked at preliminary proposals. As regards the screen it said:

*Considerable further thought needs to be given to the future of the chancel screen and the **DAC felt unable to come to a conclusion about the screen without further information on the history and significance of the screen.** Therefore the Committee decided to ask the Council for the Care of Churches for advice and I will be writing directly to them. Concerns were expressed about fitting the screen into the base of the tower (where there are existing memorials, etc) without damage. A screen works best if it leads to another space or defines another room. An alternative suggestion was to*

use part of the screen at the entrance to the sanctuary to form a small chapel (my emphasis).

32. The Council for the Care of Churches set out its views in a letter dated 19 March 2008.

I shall set out the parts dealing with the screen and the pews:

Chancel screen *The proposals affecting the chancel screen are the most controversial and the Council understands that it is the primary reason that the DAC are seeking its views. The exact origins of the screen are not clear but it seems likely to be 14th century in date. What is clear is that Woodyer restored the ‘mutilated rood screen’ in 1845. While there is some ancient timber, the Victorian restoration appears to be substantial. The Council considered that one option would be for the parish to commission a detailed study of the timberwork to further analyse the significance of the screen. This might form a useful tool to the faculty process, particularly in relation to the consultees, but the Council considered that the desire to relocate the screen would not change as a result and felt that there was sufficient information for it to deal with the matter in principle.*

*The chancel is a substantial space and provides seating for around 50 at present. The Council understands that it already provides additional seating for monthly family services and other services as necessary. **The Council discussed the various options for relocating the screen and felt that it could support a proposal which relocated only the central section of the screen by positioning it eastwards in front of the high altar.** This solution would retain a clear context for the screen and have the additional benefit of creating a small chapel for intimate prayer at the east end. This is desired by the parish and is arguably preferable to having an empty sanctuary and/or an unused altar a few yards away from the new dais.*

The Council recognised that only moving the central section of the screen would present a major compromise for the parish but it considered that retaining the outer screens would not prevent the envisaged use of the chancel. It considered that removal of all the screens could have the unanticipated effect of making the exposed and elevated chancel an undesirable place to sit which would be counter-productive. Resiting the screens around the building at the west end and against the north transept was not considered appropriate. Overall, the Council considered that any proposals for alteration and resiting of the screens should enable them to continue to perform a related and coherent function as at present and it felt that moving the central section eastwards would best achieve this.

Pews *The Council considered that the Victorian pews provided some character to the church and, during a midweek visit, a certain calm and order to the interior. There was however reasonable justification for their removal and the Council would not wish to argue for their retention. However, the Council was concerned that the provision of chairs, particularly in the numbers required here (350+ in the nave alone) would*

be unlikely to provide any degree of orders to the nave. It would urge the parish to consider a mix of matching stackable benches and chairs, un-upholstered would be strongly preferable. It hoped that DAC would work with the parish to achieve a chair/bench [?mix] which would add to the character of the building (my emphasis).

33. In the light of the CCC's response, Mr Andrew wrote to the DAC, and the DAC replied on 16 April 2008 as follows:

The CCC report confirms that the removal/relocation of the screen will probably be the most controversial part of these proposals. The DAC liked the suggestion of moving the centre portion eastwards but thought that retaining the side portions would have a marked effect on the current proposals. I had hoped that the CCC would be able to cast further light on the age and importance of the screen. The English Heritage (EH) member of the DAC, David Brook, (who is also the local EH historic buildings inspector for Surrey) indicated that he supported the CCC's suggestion for only moving the centre portion. If the PCC wish to pursue the proposal to relocate all parts of the screen, it seems that further work will need to be done to determine its age and significance. Another DAC member suggested that it would be worth looking at page 233 of John Elliott's book Henry Woodyer, Gentleman Architect (Reading, 2002, ISBN 0704913313) as this gives a couple of contemporary references to Woodyer's work at St Mary's.

34. In the light of this advice, the Parish commissioned Mr Hugh Harrison, an acknowledged expert in this field, to prepare a report in respect of the history of the screen. However design work continued and in September 2008 the Parish produced a *Project Outline*.
35. As formulated in that *Project Outline* the proposal was to move the central section of the screen to the same position as is proposed under the current scheme. The southern section of the screen would have been moved westward and the northern section to an entirely new position, the two screens together forming sort of a "parclose" screen in the south-eastern corner of the church. Thus the physical division of the congregations

in the nave and the chancel represented by the screen would have been completely removed.

36. Evidently at the time that these proposals were formulated, the precise significance of the screen was not clear. On this the *Project Outline* said:

Although the outcome of Mr Harrison's report will be a valuable tool in developing our knowledge of the history of St Mary's, it is the PCC's firm conviction that (as postulated by the CCC above) the arguments for relocating the screen are so compelling as to be valid whatever the findings of his report. Were the screen to be shown to be exclusively Victorian or exclusively mediaeval (which we know it is not), the PCC's proposals would not change and can therefore be considered, to a large degree, to be independent of the outcome of any arguments over the age of the screen.

37. The document also made clear that the PCC had also considered moving only the central section of the screen. On this it said:

Although the PCC considered the suggestion that the two side sections of the rood screen be retained in their current location, the PCC felt that this would significantly reduce the advantages of the proposals contained within this report and voted to seek the resiting of all sections of the screen.

38. The DAC's response at this stage was as follows:

The Committee was generally very supportive of the proposals including the latest ideas for the three sections of the chancel screen. The Committee will obviously need to see the full report from Hugh Harrison before coming to a final decision.

39. The DAC formally considered the scheme again at a meeting on 10 February 2009.

The DAC wrote to Mr Andrew on 17 February 2009:

You will recall that when the DAC last considered these proposals, members had not seen the report on the screen from Hugh Harrison. That report and the views of the other parties that have been consulted were circulated to all DAC members ahead of the meeting. It is now apparent that the screen is much more significant than originally believed. It is a

significant mediaeval asset and the only example in Surrey of a mediaeval screen in its original position. Therefore, following considerable discussion, the DAC decided that it could not recommend the relocation of all three parts of the screen. Members voted unanimously against the relocation of the side sections of the screen. However, the Committee recognised that the screen does restrict the use that can be made of the chancel area and a majority of members decided that they would consider recommending the relocation of the central part of the screen to the opening by the sanctuary. This is the compromise that was also suggested by English Heritage.

40. When the Parish came back with proposals that showed only the central section of the screen being moved, this was recommended by the DAC.

41. In amplification of the *Statement of Need*, Mr Andrew has submitted letters from the headmasters of the two schools which use the church. Mr D S Thomas, Headmaster of Reigate Grammar School wrote:

As you know, the link between the church and Reigate Grammar School goes back to the 17th century, with the first five Headmasters also being the vicar. We have continued to maintain our close relationship, with school services still taking place three times each week, as well as special services and concerts. In addition, as you know, Reigate St. Mary's (our prep school) also holds services twice each week in the church. We can therefore, I think, regard ourselves as closely linked to the church.

It seems to me that your plans for the interior of the church would benefit our schools enormously. The greater seating capacity, more open layout and larger worship space would allow us to make even more use of the church, and would enhance both services and other events (as the recently upgraded AV system has already done). I believe that, like all of us, churches must move with the times, and your plans seem to be entirely appropriate for the 21st century without losing the sense of history within the building.

I am therefore pleased to support your proposals wholeheartedly, and wish you every success

Mr Marcus Culverwell, Headmaster of Reigate St Mary's Preparatory and Choir School, wrote:

Thank you for sending me the information about your restructuring plan for St Mary's Church. The suggestions seem extremely well thought through and, I have to say, have been presented most professionally. As one of just a handful of Choir School Association establishments in the world which are connected to a parish church and as the greatest single user of the Church outside your own fellowship Reigate St Mary's Preparatory and Choir School would strongly support these changes. Opening the church to make it more accessible for the congregation would be of great benefit as, currently, when we have whole school services we are not able to fit all of our school and parents in. Opening the chancel for more seating and also to give people access to the beautiful architecture in this area, is highly desirable. Likewise, for our Evensong services which are conducted in the chancel it will allow those who prefer to sit further back to feel more engaged in the service. As a Choir School we are delighted that the proposed changes have taken into consideration the acoustics within the church. We are also very pleased that you will be retaining the pipe organ which adds so much to the traditional worship and to the quality of the music that we enjoy in our services. We are, therefore, fully supportive of your proposals.

May I also take this opportunity to thank you once again for allowing the school to use St Mary's Church so regularly. It really adds a lot to the richness of school life and helps us to continue with what is a unique and valuable heritage.

Government policy and guidance in respect of the historic environment

42. In published policy and guidance, the Government has emphasised its commitment to protecting the historic environment and given guidance as to how proposals for change are to be assessed. I address later what I consider the effect of this policy and guidance to be. At this stage, I shall simply seek to set out what I understand that policy and guidance to be.

43. The starting point is the *Government Statement on the Historic Environment for England 2010*. This addresses the matter at a strategic level. It emphasises that *The Government believes that the historic environment is an asset of enormous cultural, social, economic and environmental value*. Against this background it aims to ensure that there are in place relevant policy and guidance and that *heritage assets are*

afforded an appropriate and effective level of protection, while allowing, where appropriate, for well managed and intelligent change.

44. The system of protection that the Government has put in place is the system of listed building control. All buildings of special historic and architectural interest are listed and, generally, demolition or significant alteration of such buildings is subject to a requirement of permission from the relevant local planning authority or the Secretary of State. However ecclesiastical buildings – essentially churches, chapels and cathedrals – are usually exempt. As explained in *The Operation of the Ecclesiastical Exemption and related planning matters for places of worship in England: guidance* (July 2010) published by the Department for Culture, Media and Sport, the basis for this is equivalence of protection:

The 2010 Order limits the Ecclesiastical Exemption to certain buildings within the care of specified denominations which have demonstrated that they operate acceptable internal procedures for dealing with proposed works to listed ecclesiastical buildings and unlisted buildings in conservation areas. The internal procedures for such exempt denominations must be as stringent as the procedures required under the secular heritage protection system. Equivalence of protection is a key principle underpinning the Ecclesiastical Exemption and will be kept under review by the Department for Culture, Media and Sport, in order to ensure that those denominations which benefit from the Ecclesiastical Exemption maintain the required standards of protection.

45. Government policy is set out in *Planning Policy Statement 5: Planning for the Historic Environment* (2010) (PPS 5). The Government's overarching aim is set out in paragraph 7 of PPS5:

The Government's overarching aim is that the historic environment and its heritage assets should be conserved and enjoyed for the quality of life they bring to this and future generations. To achieve this, the Government's objectives for planning for the historic environment are:

- *to deliver sustainable development by ensuring that policies and decisions concerning the historic environment:*

- recognise that heritage assets are a non-renewable resource
- take account of the wider social, cultural, economic and environmental benefits of heritage conservation; and
- recognise that intelligently managed change may sometimes be necessary if heritage assets are to be maintained for the long term.
- to conserve England's heritage assets in a manner appropriate to their significance by ensuring that:
 - decisions are based on the nature, extent and level of that significance, investigated to a degree proportionate to the importance of the heritage asset wherever possible, heritage assets are put to an appropriate and viable use that is consistent with their conservation
 - the positive contribution of such heritage assets to local character and sense of place is recognised and valued; and
 - consideration of the historic environment is integrated into planning policies, promoting place-shaping.
- to contribute to our knowledge and understanding of our past by ensuring that opportunities are taken to capture evidence from the historic environment and to make this publicly available, particularly where a heritage asset is to be lost.

46. Evidently this explains the importance of heritage assets as a non-renewable resource, but also recognises that change may sometimes be necessary.

47. Specific policy in respect of applications for change made to local planning authorities is set out in Policies HE7 and HE9. Policy HE7 emphasises the need for local planning authorities *to identify and assess the particular significance of any element of the historic environment that may be affected by the relevant proposal.*

48. I should set out part of Policy HE7.5:

Local planning authorities should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment.

49. I should set out the first four paragraphs of HE9:

HE9.1 *There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be.*

Once lost, heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Loss affecting any designated heritage asset should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, including scheduled monuments, protected wreck sites, battlefields, grade I and II listed buildings and grade I and II registered parks and gardens, World Heritage Sites, should be wholly exceptional.

HE9.2 *Where the application will lead to substantial harm to or total loss of significance, local planning authorities should refuse consent unless it can be demonstrated that:*

- (i) the substantial harm to or loss of significance is necessary in order to deliver substantial public benefits that outweigh that harm or loss; or*
- (ii) (a) the nature of the heritage asset prevents all reasonable uses of the site; and*
 - (b) no viable use of the heritage asset itself can be found in the medium term that will enable its conservation; and*
 - (c) conservation through grant-funding or some form of charitable or public ownership is not possible; and*
 - (d) the harm to or loss of the heritage asset is outweighed by the benefits of bringing the site back into use.*

HE9.3 *To be confident that no appropriate and viable use of the heritage asset can be found under policy HE9.2(ii) local planning authorities should require the applicant to provide evidence that other potential owners or users of the site have been sought through appropriate marketing and that reasonable endeavours have been made to seek grant funding for the heritage asset's conservation and to find charitable or public authorities willing to take on the heritage asset.*

HE9.4 *Where a proposal has a harmful impact on the significance of a designated heritage asset which is less than substantial harm, in all cases local planning authorities should:*

- (i) weigh the public benefit of the proposal (for example, that it helps to secure the optimum viable use of the heritage asset in the interests of its long-term conservation) against the harm; and*
- (ii) recognise that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss.*

50. PPS 5 evidently contains policy and guidance which, although applicable to individual applications, is expressed in broad terms. More specific guidance is contained in *PPS 5 Planning for the Historic Environment: Historic Environment Planning Practice Guide*

(March 2010) produced by the Department for Communities and Local Government, the Department for Culture Media and Sport and English Heritage. This document contains much good advice, some of which will inevitably be reflected in preparation of a properly presented application, and has been reflected in this petition. I think that it will be helpful to set out the following:

78. Local authorities are advised to take into account the likely longevity of any public benefits claimed for a proposed scheme. Speculative, ill-conceived or short-term projects will not compare so favourably when considering an irreversible harm to the significance of a heritage asset.

Heritage benefits

79. There are a number of potential heritage benefits that could weigh in favour of a proposed scheme:

- 1. It sustains or enhances the significance of a heritage asset and the contribution of its setting.*
- 2. It reduces or removes risks to a heritage asset.*
- 3. It secures the optimum viable use of a heritage asset in support of its long term conservation.*
- 4. It makes a positive contribution to economic vitality and sustainable communities.*
- 5. It is an appropriate design for its context and makes a positive contribution to the appearance, character, quality and local distinctiveness of the historic environment.*
- 6. It better reveals the significance of a heritage asset and therefore enhances our enjoyment of it and the sense of place.*

and:

93. Keeping land in active use is a public benefit. It will be very rare that a decision has to be made between keeping a designated heritage asset and returning the site to active use but in such cases a balance still has to be struck between the loss to society of the significance of the designated asset and the benefits of returning the site to use. Loss of the highest graded assets will only be on wholly exceptional grounds.

94. Given the irreversibility of any such decision, the demolition or destruction of a designated heritage asset on these grounds is very much a last resort after every option to secure a viable future for the asset has been exhausted. The fact that particular applicants or their advisers cannot conceive of a viable use for the asset does not mean that there is no such use.

51. English Heritage is the Government's adviser on the historic environment and, under the terms of the Ecclesiastical Exemption, is required to be consulted on proposals for significant changes to churches. It has published two documents to which I should refer.
52. The first is *New Work in Historic Places of Worship* (September 2003). This document sets out the principles that English Heritage applies when considering proposals for the alteration or extension of historic places of worship.
53. The document begins by emphasising the importance of historic churches within the category of historic buildings:

Historic church buildings are the heritage of all, and interest in their care and development extends well beyond the worshipping communities. They are frequently the finest buildings in their surroundings, central to the settlements they serve and of major townscape or landscape importance. They are repositories of the best that previous generations could offer in terms of design, craftsmanship and skill. They tell us how previous generations lived, thought and worshipped. They are integral to our sense of place and belonging.

54. It also explains how churches have constantly been changing over the years to reflect changing needs:

Most churches have been altered or rearranged several times over the centuries to meet changing needs, and the evidence of change is often an essential part of our appreciation of such buildings. Medieval parish churches were regularly enlarged or beautified to accommodate the liturgies of the living and the wishes of the dead. In the post-medieval period they were radically altered to suit the requirements of the reformed liturgy.

In recent times liturgical, social and economic changes have often led to a radical reappraisal of the way that historic places of worship may be used. Thus community participation rather than hierarchy has been emphasised and the architectural settings associated with previous modes of worship often seen as inappropriate.

Coupled with these changes has been an increased emphasis on comfort and convenience. It is now widely expected that public places of worship should have comfortable heating and seating, a lavatory, a modest kitchen and space for meetings. There is also an increasing emphasis on broadening the use of church buildings, especially the main congregational space, beyond that of regular worship.

While places of worship have changed over time, this has not been an entirely neutral process. Some changes have been for the better and some have not. Inevitably there is sometimes a tension between the desire for change and the aims of conservation. It is the purpose of this document to reduce the scope for conflict and to ensure that a proper balance is reached between the needs of the users of the building and the desirability of conservation.

55. In terms of identifying the significance of a church, two passages are particularly relevant:

Architectural and historical development. *Many older churches have grown by accretion over the centuries and it is important to seek to establish the building sequence. It should be borne in mind that many churches have undergone thorough restoration at some point and that this restoration may in itself be of considerable interest and quality. More recent churches and chapels are more likely to have been built in only one or two phases and may be the work of a single architect. Whatever the age of the building, an assessment should be made of its architectural design and character; the external composition and internal plan form; aesthetic and spatial qualities and decorative schemes. Where the church is by a known architect, it may be helpful to compare it with other examples of that architect's work in order to identify both typical and unusual features of the design.*

Furnishings. *The age, rarity and intrinsic merit of the internal furnishings and fittings should be assessed, together with the historic interest and extent of completeness of the overall arrangement. Any past history of re-ordering or alteration should be taken into account. Do not discount the 19th and 20th century fittings simply because they may be relatively recent in date – they may comprise the most important features of the interior. Equally, modest examples of local craftsmanship should be given proper recognition.*

56. In a section of general advice on *Major alterations: interiors* the following appears:

Internal alterations and rearrangements need to take account of the spatial qualities of the interior and the main architectural area as well as the significance of individual fittings ... Chancel and sanctuary furnishings of all periods will often be of high quality and can make a significant

contribution to the character and special interest of the church. In recent years changes driven by liturgical considerations have often involved the removal or unsympathetic adaptation of important historic fittings. However, damaging changes of this nature can usually be avoided, either by reducing the prominence of such items (for example, in the way they are lit or adorned) or, in some cases by their careful adaptation or relocation.

The majority of historic churches and chapels have fixed seating. Medieval and immediately post-medieval fixed seating is so rare that it should always be retained. Complete preaching interiors with box pews, prominent pulpits and galleries are also comparatively rare and should be retained intact. However, most historic churches have seating that dates from the 19th century. If this is of very high quality and is contemporary with the church or forms part of a significant historic scheme of re-ordering, the degree of flexibility may be limited. Elsewhere, rearrangement is often possible, especially in the less-used areas of the church. Major re-seating schemes should not run counter to the main architectural axis of the building and careful thought should be given to floor finishes.⁷

57. Finally I should set out the Summary:

English Heritage hopes that the approach outlined in this document will lead to the accommodation of change in ways that preserve the special value of our unique inheritance of historic places of worship. We hope it will ensure that all proposals are grounded on a firm understanding of the building in question; understanding of the building increases appreciation for it, and thereby encourages a virtuous circle of care. For our part, we remain ever conscious that these are buildings built for a purpose; places, in T.S. Eliot's words, 'where prayer has been valid'. We recognise that it is through that continuing purpose that the future of these buildings will be best assured.

58. Perhaps surprisingly, *New Work in Historic Places of Worship* does not refer to the relevance of reversibility in the assessment of proposals for change.

⁷ Reigate and Banstead Borough Council have also drawn my attention to guidance about pews issued by the Council for the Care of Churches in April 2004 (now found on the Church of England "Churchcare" website). This is, I think, stronger in respect of the case for retaining nineteenth century pews: *Many churches contain nineteenth century pews that are not of great artistic merit in themselves, but nevertheless contribute greatly to the overall character of the church (particularly if part of a Victorian restoration), and the case for their retention is that much stronger.*

59. Reversibility is a matter which is referred to in *Managing Change to Significant Places* published by English Heritage. It contains the following passage:

Consider the potential reversibility of changes

100 *In reality our ability to judge the long-term impact of changes on the significance of a place is limited. Interventions may not perform as expected. As perceptions of significance evolve, future generations may not consider their effect on heritage values positive. It is therefore desirable that changes, for example those to improve energy efficiency in historic buildings, are capable of being reversed, in order not unduly to prejudice options for the future.*

101 *However places should not be rendered incapable of a sustainable use simply because of a reluctance to make modest, but irreversible, changes. It is also unreasonable to take the idea of reversibility to the point that intervention in significant places diminishes their aesthetic values by appearing contrived, awkward or ugly, in order to ensure that it can be undone. Unless of very short duration, crude and intrusive changes are certainly not justifiable simply because they are theoretically temporary or reversible, for they risk becoming permanent.*

60. It is also relevant to set out the following passage:

Consider the effects on authenticity and integrity

91 *Evidential value, historical values and some aesthetic values; especially artistic ones, are dependent upon a place retaining (to varying degrees) the actual fabric that has been handed down from the past but authenticity lies in whatever most truthfully reflects and embodies the values attached to the place (Principle 4.3). It can therefore relate to, for example, design or function, as well as fabric. Design values, particularly those associated with landscapes or buildings, may be harmed by losses resulting from disaster or physical decay, or through ill-considered alteration or accretion. Design value may be recoverable through repair or restoration, but perhaps at the expense of some evidential value. Keeping a large machine, like a water mill or boat lift, in use, may require placement and modification of structural or moving parts which could be retained if it ceased to operate, producing a tension between authenticity of fabric and function.*

92 *The decision as to which value should prevail if all cannot be fully sustained always requires a comprehensive understanding of the range and relative importance of the heritage values involved (guided by the assessment of significance: paragraphs 82-83), and what is necessary (and possible) to sustain each of them. Retaining the authenticity of a place is not always achieved by retaining as much of the existing fabric as is technically possible.*

- 93 *A desire to retain authenticity tends to suggest that any deliberate change to a significant place should be distinguishable, that is, its extent should be discernible through inspection. The degree of distinction that is appropriate must take account of the aesthetic values of the place. In repair and restoration, a subtle difference between new and existing, comparable to that often adopted in the presentation of damaged painting, is more likely to retain the coherence of the whole than jarring contrast.*
- 94 *Integrity (literally, 'wholeness, honesty') can apply, for example, to a structural system, a design concept, the way materials or plants are used, the character of a place, artistic creation, or functionality. Decisions about recovering any aspect of integrity that has been compromised must, like authenticity depend upon a comprehensive understanding of the values of the place, particularly the values of what might be lost in the process.*
- 95 *Every place is unique in its combination of heritage values, so, while it is technically possible to relocate some structures, their significance tends to be diminished by separation from their historic location. There are exceptions, for example public sculpture not significantly associated with its current site, or moving a structure back from an eroding cliff edge, thus recovering its intended relationship with the landform. Relocated structures may also acquire new values in a new location.*

Local Policy

61. The *Reigate and Banstead Borough Council Local Plan (2005)* contains a policy in respect of listed buildings: (Pc9). It provides:

The Borough Council will seek to retain and preserve the stock of listed buildings on the statutory list and will apply the following criteria in relation to proposals affecting them:

...

- (ii) alterations and additions to listed buildings will only be permitted where these respect and reflect the scale, design, materials and other character aspects of the building concerned;*
- (iii) proposals for new development, including alterations and additions, and changes of use should not detract from the character or setting of listed buildings ...*

Approach

62. The faculty jurisdiction of the Church of England – by which all significant alterations to a church must be authorised by the Chancellor of the relevant diocese – goes back a long way. In the Diocese of Chester, records of faculty petitions are found dating back to the seventeenth century. Concern for the preservation of historic buildings in a form that we would recognise today is something that emerged in the nineteenth century.
63. In two cases decided at the end of the nineteenth century, Lord Penzance, Dean of the Arches, established that it was for the petitioners – the party seeking to bring about change – to establish the need for change. It will be helpful to set out two quite lengthy passages from his judgments. In *Peek v Trower*⁸ he said:

Two widely different principles present themselves. The Court might say this: If some of the parishioners desire this change, and there is a fund out of which it may be made without placing a burden on others, then, unless those who oppose it can shew that it will work mischief, that it will impair the capacity, the fitness, or the convenience of the church for the purposes of public worship, it ought to receive the sanction of the Court. The objection to such a principle of decision is that it would open the door wide to all capricious changes— would give no heed to those feelings of attachment and regard with which tradition and long time are apt to invest old churches in the eyes of those whose families have sometimes worshipped for generations in the same spot, under the same roof, and with the same surroundings. There are in these matters, as in most others of the kind, two classes of people— those who are prone to believe that all changes must be improvements and those who love the things that be, and who regard all changes, though they may be improvements, with reluctance and the vigilance of a jealous eye. To give unlimited indulgence to the caprices or whims of the one class would be to wound without need the feelings of the other. And then come questions of architectural beauty and the endless controversies of taste, which, though always subordinate to utility, have a fair place in the controversy when utility is not in question. A principle of decision such as I am now discussing would make short work of all these. On the other hand, the Court might say this: All presumption is to be made in favour of things as they stand. If you and others propose to alter them, the burden is cast upon you to shew that you will make things better than they are— that the church will be more convenient, more fit for the accommodation of the parishioners who worship there, more suitable, more

⁸ (1882) LR 7 PD 21.

*appropriate, or more adequate to its purposes than it was before; and if you cannot shew this to the Court, at least shew the Court that a majority of those for whose worship the church exists desires the alterations which you propose. And this is, I think, the language which in substance the Court ought to hold. **The burden of proof does, I think, properly devolve upon those who propose a change, and unless that proof is clear and manifest as to the benefits to be obtained by such change, the Court ought to be satisfied that there is a general desire on the part of the parishioners, or at least of the actual worshippers being parishioners, that the change should be made***⁹ (emphasis supplied).

The case lucidly identified the issues, but did suggest that ultimately the decision lies in the hands of the worshippers.

64. Lord Penzance revisited the issues a decade later; in *Nickalls v Briscoe*¹⁰ it was argued that a faculty should not be granted if the worshippers did **not** want the alternation to be made. Lord Penzance said:

It is said that the majority in the parish object to the proposed alteration. I will assume that this was established by the evidence for the purpose of argument; but it constitutes no answer to the present application. The notion that the matter here in question should be decided by the wishes of the majority of the parishioners proceeds, in my opinion, upon an entirely mistaken view of the law. The appellants 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. It belongs not to any one generation, nor are its interests and condition the exclusive care of those who inhabit the parish at any one period of time. It is in entire conformity with this aspect of the parish church that the law has forbidden any structural alterations to be made in it, save those which are approved by a disinterested authority in the person of the Ordinary, whose deputed discretion and judgment we are here to exercise to-day. That the grant or refusal of a faculty is a matter which lies in the judicial discretion of the bishop, the learned counsel for the appellants do not deny; but if a majority of parishioners is to settle the question, what, it may be asked, becomes of this discretion? I am far from saying that the wishes of the parishioners have no place in that balance of opposing considerations which is involved in the exercise of a judicial discretion— but the weight to be given to them depends upon many and various circumstances. In the first place, the opinions of the parish, to be of much value, should be opinions formed in relation to the proposed alteration itself and its effect on the convenience or beauty of the church, and not, as in the present case, upon

⁹ See pp 27-28.
¹⁰ [1892] P 269.

the motives or objects of those who propose it. A divided opinion, moreover, reduces its value very much. Is the proposed alteration an improvement? Does it render the edifice more commodious or more fit for its purposes? Or, if not this, does it add to its architectural beauty or suitable decoration? If the proposed alteration cannot be supported upon any of these grounds, those who propose it should at least be able to assert that it is supported by a very general desire on the part of the parishioners.

*And this is all that was meant to be conveyed by the Court in the case of Peek v. Trower.*¹¹

65. It seems to me likely that in these judgments are reflected the concerns of nineteenth century “conservationists” about what they perceived as unnecessary changes to churches, although evidently in 1882, at least, Lord Penzance could not envisage circumstances where considerations of *architectural beauty* might outweigh *utility*. However this may be, Lord Penzance evidently envisages that Chancellors, in considering petitions for change, would carry out a balancing exercise, and that the starting point was the preservation of the *status quo*.
66. When, after the Second World War, the state came to introduce a statutory system for the protection of historic buildings, one approach would have been to subject churches to the system of secular control that was being introduced. However, because there was an existing system of control in existence in respect of churches – the faculty system – it did not do so, relying instead on that existing system. In *In re St Luke, Maidstone*,¹² Sir John Owen explained that this was a recognition on the part of the State of the freedom to worship: *[a] degree of flexibility to meet liturgical requirements is essential for effective ministry. To impose too rigid a restriction upon internal alterations is to*

¹¹ See pp 282-3.
¹² [1995] Fam 1.

*run the risk of crossing the dividing line and interfering with that freedom.*¹³ The “ecclesiastical exemption” as it is known has not been without its critics but it has been reviewed by Government on a number of occasions and remains in place. The view is often expressed that the ecclesiastical exemption is more rigorous than the comparable secular controls.

67. The secular system provided that buildings of historical and/or architectural interest should be listed, and that any significant alteration to such building should require “listed building consent”. The ecclesiastical exemption only provided that alterations to ecclesiastical buildings should not require listed building consent, not that they should not be subject to listing itself. So all churches of sufficient historic or architectural interest are listed: as has been seen, the church of St Mary Magdalene, Reigate is listed Grade II*.

68. It would have been possible, at least in theory, for the faculty jurisdiction to ignore the fact that a church was listed as it considered the appropriateness of alterations to it. It seems that initially this was indeed how the faculty jurisdiction was exercised. Thus, for example, the judgments in *In re St Peter Roydon*¹⁴ and *In re All Saints, Whitstable*¹⁵ (two major reordering cases) do not reveal whether the historic churches concerned were listed;¹⁶ and in *In Re St Andrew, Backwell*¹⁷ – where an architect gave expert evidence opposing an extension to an historic church – once again the judgment does not say whether the church was listed. I should emphasise that the fact that a church

¹³ See p5G. Although the need for flexibility is expressly recognised, it does not seem that the recognition of freedom of worship now features in the reasoning of Government for retention of the exemption: see paragraph 90 below.

¹⁴ [1969] 1 WLR 1849.

¹⁵ [1984] 1 WLR 1164.

¹⁶ It is obvious from their historic interest that they would have been listed.

¹⁷ Unreported, judgment 16 December 1982. This was a judgment of Newsom QC Ch in the Consistory Court of the Diocese of Bath and Wells.

was of historic and architectural importance was very important in terms of the Chancellor's consideration; it is just that the fact that the church was listed was not seen as a relevant matter.

69. However in due course there was a change. It seems to have flowed from the judgment of Sir John Owen, Dean of the Arches, in *In re St Mary's Banbury*.¹⁸ This case concerned a proposal to take out the original pews from a church which was listed Grade A. Having set out the listing, Sir John went on to say:

An argument based solely on this consideration was not developed at the hearing of the appeal and it is sufficient to state that, although the exemption is necessary so that in such cases the dead hand of the past shall not prevent the proper use of a building consecrated to the worship of God, a listing does indicate that a faculty which might affect the special nature of the architectural or historic interest - and certainly the removal of all the pews from this church would do this - should only be allowed in cases of clearly proved necessity.

*The faculty jurisdiction must and does treat churches such as St. Mary's, Banbury, as treasures not only for the people of the parish, whether churchgoing or not, not only for the Anglican Church, but also for the country at large.*¹⁹

70. He went on to articulate the following test or guideline:

*When a church is listed as a building of special architectural interest a faculty which would affect its character as such should only be granted in wholly exceptional circumstances, those circumstances clearly showing a necessity for such a change.*²⁰

71. In *In re All Saints', Melbourn*²¹ Sir John reiterated this guideline, although he did say that it would have been better if the word *adversely* had been inserted between *would* and *affect*.

¹⁸ [1987] Fam 136.

¹⁹ See p139D.

²⁰ See p145F.

²¹ [1990] 1 WLR 833.

72. He also emphasised that what he had proposed was a guideline – *indicating that for such churches there is a strong presumption against change which will adversely affect the church as a building of special architectural or historical interest.*²²

73. In *In re St Helen, Bishopsgate*, Cameron QC Ch (as she then was) formulated the following approach which was to be taken by the Consistory Court in respect of petitions for the alteration of listed buildings, namely that the following three fundamental questions were to be asked:

(1) *Have the petitioners proved a necessity for some or all. of the proposed works, either because they are necessary for the pastoral well-being of St Helen's, or for some other compelling reason?*

(2) *Will some or all of the works adversely affect the character of the church as a building of special architectural and historic interest?*

(3) *If the answer to (2) is yes, then is the necessity proved by the petitioners such that in the exercise of the Court's discretion a faculty should be granted for some or all of the works?*

74. In *In re St Luke, Maidstone*, the Court of Arches agreed that this approach was the correct one. The questions were asked by the Court of Arches in that case and in the subsequent case of *In re St Mary the Virgin, Sherborne*.²³

75. In a case in this diocese, *In re St John the Evangelist, Blackheath*²⁴ relating to a Grade II listed church, George QC Ch (as he then was) asked the Bishopsgate questions. Before doing so he helpfully articulated the following principles:

(1) *The onus lies with the petitioners*

²² See p844A.

²³ [1996] Fam 63.

²⁴ Unreported, 13 October 1998.

(2) *Whilst the wishes of the majority of parishioners are relevant, they are not paramount, because the church belongs not to any one generation*

(3) *In the case of a listed church, there is a strong presumption against change which would adversely affect its character as a building of special architectural or historic interest.*

(4) *Where there will be such an adverse effect, a faculty should only be granted in wholly exceptional circumstances, where there is a necessity for change.*

(5) *The pastoral wellbeing of the church can constitute a necessity.*

(6) *A change which is permanent is particularly to be avoided.*

76. He also addressed the question of the meaning of *necessity* and *necessary* in the Bishopsgate questions: *something less than essential, but more than merely desirable or convenient; in other words something that is requisite or reasonably necessary.*

77. As one would expect, these principles are evidently well grounded in authority. The first two evidently go back to the nineteenth century cases considered at paragraphs 63 to 65 above. The third and fourth relate to what Sir John Owen said in *In re St Mary, Banbury*²⁵ and *In re All Saints, Melbourn*.²⁶ The fifth relates to what Sir John said in *In re St Luke, Maidstone*.²⁷ The sixth reflects the following guidance of Sir John Owen in *In re St Mary, Banbury*:

*...a change which is permanent and cannot be reversed is particularly to be avoided.*²⁸

78. The views of George QC Ch as to the meaning of *necessity* and *necessary* also seem to be soundly based.

²⁵ See p145E.

²⁶ See pp843C-844A.

²⁷ See p8D.

²⁸ See p145F. It is not clear whether it is limited in its application to listed buildings, but for present purposes this does not matter.

79. I would also draw attention to another point which George QC Ch made in *In re St John the Evangelist, Blackheath*. It will be noted that in *In re St Luke, Maidstone*, the Court of Arches said that the answer to the third Bishopsgate question will require a balance. This may seem obvious. However on a narrow reading of the third *Bishopsgate* question, Chancellors would only be concerned with the extent of the necessity not with the degree of adverse effect. Thus it is worth articulating in terms that in any particular case just as the need identified in (1) may outweigh the harm identified in (2), it is possible that the harm may outweigh the need. George Ch QC did just this in *In re St John the Baptist, Blackheath*.
80. Doubt has been expressed as to whether the fourth principle or guideline identified by George QC Ch in *In re St John the Baptist, Blackheath* is correct. In *In re St Stephen, Walbrook*,²⁹ which was an appeal to the Court of Ecclesiastical Causes Reserved, it was pointed out that it was more restrictive than the secular listed building guidance which was in force at the time that the guideline was enunciated (Department of the Environment Circular 23/77). Of the five members of a strong court, three delivered reasoned judgments. Of these, two (Sir Ralph Gibson and Sir Anthony Lloyd) doubted the correctness of the guideline;³⁰ the third (the Bishop of Chichester) limited himself to observing that the Court of Ecclesiastical Causes Reserved was not bound by such a guideline and did not apply it.³¹ I would note of this latter observation that it would evidently be completely unsatisfactory if a different rule applied to petitions for

²⁹ [1987] Fam 146.

³⁰ See the judgment of Sir Ralph Gibson at pp191E-192F and the judgment of Sir Anthony Lloyd at planning permission 197G-198E. Sir Ralph Gibson doubted whether Sir John Owen had meant to establish any principle other than giving due weight to all relevant matters. The difficulty presented to decision makers however is that it does read like a test.

³¹ See the judgment of the Bishop of Chichester.

faculties where an appeal lay to the Court of Ecclesiastical Causes Reserved to that which applied when an appeal lay to the Court of Arches. The focus of the other two members of the court was upon the requirement to show a necessity for change to a listed building rather than the *wholly exceptional* test. I note that Sir Ralph Gibson doubted whether Sir John Owen had meant to establish any principle other than that of giving due weight to all relevant matters, although I am bound to say that the guideline does read like a test to be applied – albeit, no doubt, with a degree of flexibility.

81. As I have noted, Sir John Owen reaffirmed the guideline in *In re All Saints, Melbourn*. He did this having had the judgments in *In re St Stephen, Walbrook* referred to him. In this regard, Gray QC Ch pointed out in *In re St Barnabas, Dulwich*³² that between Sir John’s judgment in *In re St Mary, Banbury* and *In re All Saints, Melbourn*, Government policy on listed buildings changed to introduce reference to need; this may have fortified Sir John Owen in what he said. I should say that my immediate concern is with the words *wholly exceptional* which suggest that there is a special burden upon a petitioner. That same idea also comes through Sir John’s observation in *All Saints’, Melbourn* that there is a *strong presumption* against change which adversely affects a church as a building of special architectural or historic interest. This clearly reflected the then Government guidance contained in Circular 8/87 that there was a presumption in favour of preservation except where a strong case can be made for granting consent.³³

82. It seems clear that what Sir John Owen was doing was engaging with the relationship between the control exercised under the secular system in respect of listed buildings

³² [1994] Fam 124.

³³ Cameron QC Ch made the connection in *In re St Helen, Bishopsgate*.

and that exercised under the faculty system. His conclusion evidently was that, where the faculty jurisdiction had to be exercised in respect of listed buildings (i.e. buildings identified to be particularly significant under the secular system), it was appropriate for that system to reflect the approach that was contained in secular law and guidance.

83. It seems to me that I must loyally apply the principles established by authority and helpfully set out in George QC Ch's judgment in *In re St John the Evangelist, Blackheath*. I am bound to say that I do not think that it is very easy to apply the third and fourth guidelines. They suggest that in considering changes which would have an adverse effect on a listed building, there is a special burden upon the petitioners in establishing a case for a faculty. If this is right, then, as a matter of logic, it seems to me that in order for it to be properly taken on board, it ought to be incorporated into the third Bishopsgate question. However, this has not come about.³⁴ Accordingly, what I will do is first of all to consider the position by asking and answering the Bishopsgate questions. I will then consider the position by reference to the third and fourth principles.

84. In what I have said above I have explained how the approach to listed building applications in secular law has informed the enunciation of principles in the ecclesiastical jurisdiction. I need now to consider the relevance of current national and local policy guidance to my decision. I have set out that guidance at paragraphs 42 to 61 above.

³⁴ The Bishopsgate questions have been applied in all cases since the decision in *In re St Helen, Bishopsgate* itself, and attempts to modify them have been resisted.

85. I should begin by observing that the ecclesiastical jurisdiction evidently does afford strong protection to listed buildings within its jurisdiction, and George QC Ch in *In re St John the Evangelist, Blackheath* thought that it was stronger than that under the secular jurisdiction.
86. Second, although the approach that I am bound to take and that which a planning authority is bound to take are obviously expressed differently, they **are** similar. In each case the decision maker has to weigh need against harm, and to do so must first assess the nature of both the need and the harm. If there be any harm, weighty need is required to justify an authorisation.
87. Third, it seems to me that the basis on which the state supports the ecclesiastical exemption is that it is no less strict in the decisions that it reaches than the secular planning authority. I derive this conclusion from *The Operation of the Ecclesiastical Exemption and related planning matters for places of worship in England: Guidance* published by the Department for Culture, Media and Sport in July 2010. At paragraph 9 of the *Guidance* appears the following:
- Equivalence of protection is key principle underpinning the Ecclesiastical Exemption ...*
88. It seems to me that the protection afforded to buildings in the ecclesiastical and secular system can hardly be said to be equivalent if the protection in the secular sphere were stricter than the ecclesiastical sphere.

89. Further when, at paragraph 8 of the Guidance, the following is said:

This guidance explains the operation of the Ecclesiastical Exemption. It replaces for England only at this time the 1994 booklet The Ecclesiastical Exemption – What it is and How it Works. It should be used by those denominations which are already exempt, any denominations or faith groups which may seek coverage by the Ecclesiastical Exemption, local planning authorities, heritage protection professionals, and members of the public. It should be read alongside the Act, the 2010 Order, the Code of Practice (at Annex A), and Planning Policy Statement (PPS) 5 – Planning for the Historic Environment. English Heritage may, from time to time, publish separate guidance on works to heritage assets.

I think that the Department for Culture, Media and Sport is indicating that an ecclesiastical decision maker will find national guidance relevant as well as guidance published by English Heritage.

90. I should also set out paragraph 7 of the Guidance:

The Ecclesiastical Exemption reduces burdens on the planning system while maintaining an appropriate level of protection and reflecting the particular need of listed buildings in use as places of worship to be able to adapt to changing needs over time to ensure their survival in their intended use. It is widely acknowledged that keeping a building in use is more than likely to result in the preservation, proper maintenance and sustainability of that building.

91. I do not read this passage as indicating that a lesser degree of control is considered by the Department for Culture, Media and Sport as appropriate in respect of churches; in my view what it is doing is acknowledging the fact that ecclesiastical systems of control are well placed to assess the need for places of worship to adapt.

92. Paragraphs 87 to 91 above are my interpretation of how I consider the Department for Culture, Media and Sport envisage the ecclesiastical exemptions as working. They cannot, I think, be binding on me or upon the Chancellors as they operate the faculty system. Nonetheless I would be troubled if I thought that the tests I were applying were

less strict than in the secular sphere. As a generality I am confident that this is not the case, and *The Operation of the Ecclesiastical Exemption* would hardly have been cast in the terms that it was unless Government were satisfied with the way that the exemption was working in practice. I also think however that I need to have regard to specific secular, national and local guidance as set out in paragraphs 42 to 61 above as a check to see whether the approach that I am proposing to applying in the particular case before me is likely to lead to an authorisation which would not be properly available in the secular sphere. Looking at that policy, I do not think that this is the case. I do however note that for the presumption that applied when Sir John Owen was formulating his guidance (in Circular 8/87), under Policy HE9.1, a “sliding scale” presumption now applies: *...the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be.* However this guidance – which might be thought to be common sense – is not excluded by Sir John’s guidelines. In practice, the balancing exercise enjoined by addressing the third Bishopsgate question involves giving greater weight to the heritage asset the more significant that it is; and of course this is an exercise that is undertaken in the light of the *strong presumption* against adverse change, in circumstances which are *wholly exceptional*. It seems to me that what is at the heart of national and local guidance is a requirement to weigh harm against need, which of course is what the ecclesiastical approach is all about.

93. I should say a word specifically about local policy. In the present case, it seems to me that it does not in practical terms add anything to national policy. It is my experience that it very often is the case that local policy on listed buildings will not have anything to add to national policy. Nonetheless if there were a case where local policy did reflect

particular local circumstances, it seems to me that it would be appropriately considered in a similar way to that in which I have suggested that national policy should be considered; no doubt the underlying reason for the particular policy would be a matter to be carefully weighed by the Chancellor in any event.

94. I think that the practical guidance contained in *PPS 5 Planning for the Historic Environment: Historic Environment Planning Practice Guide*, in *New Work in Historic Places of Worship* and in *Managing Change to Significant Places* will be of value to decision makers in both the secular and ecclesiastical spheres, and I have accordingly been assisted by it.

Cases concerning screens

95. I thought that it might be instructive to look at previous cases which involved significant screens. I am mindful of three: *In re St Andrew, Bebington*,³⁵ *In re St Helen, Bishopsgate* and *In re St John the Evangelist, Blackheath*.
96. *In re St Andrew, Bebington* concerned a re-ordering scheme in respect of a Grade I listed church which involved moving a screen. However the case pre-dates *In re St Helen, Bishopsgate* and details of the significance of the screen are limited: it sounds as if the screen were Victorian or later. A balancing exercise was not expressly carried out. Permission to remove the screen (on condition that it was stored) was given.
97. *In re St Helen, Bishopsgate* concerned a major re-ordering of a Grade I listed church in the City of London. This was a mediaeval church, which had miraculously survived

³⁵ Unreported (Consistory Court of the Diocese of Chester; 24 November 1988).

the Fire of London, but which had been substantially remodelled by JL Pearson at the beginning of the 1890s. This work had involved lowering part of the floor and the installation of a chancel screen and side screens behind the stalls. The re-ordering proposed raising the floor and moving the screen elsewhere within the church.

98. The Chancellor found that the need for the works was established.

99. In terms of the effect of the work, the Chancellor found that:

... so far from adversely affecting the character of the church the raising of the floor is ... likely to enhance the appearance of the church and improve its special quality.

100. As regards the screens, the Chancellor said:

In my judgment, the removal of the screens will assist in the unification of the main part of the church and will assist in improving its spatial quality in conjunction with the raising of the floor. Whilst it will bring about a major change in the appearance of this part of the church, I do not consider that the work will adversely affect the character of the church as a building of special architectural and historic interest. The chancel screen, which was generally agreed to be the most important of the screens, will continue to be a feature of interest in a new prominent position.

101. *In re St John the Evangelist, Blackheath* concerned a church which had been consecrated in 1853 and which was listed Grade II. A chancel screen was an early work of HS Rogers FRIBA installed in 1911.

102. The Chancellor found the need for the works established. As regards the merits of the screen, he said:

Advancing the altar and removing the chancel screen will alter the character of the interior to an extent even greater than the changes to the nave. Leaving aside necessity, there is force in the argument that the screen

should never have been introduced, that its horizontality conflicts with the vertical form, and east-west axis, of the interior, and in particular with the chancel arch. That is the view of the petitioners and Mr. Burton. There are better, and older, screens elsewhere, notwithstanding the post-war purge of chancel screens, but the Rogers' screen is distinctive, and EH, VS and CCC are right to be concerned about its removal. It is part of the joy and interest of listed buildings, and in particular churches, that they include accretions, many of which are not entirely consonant with what was there before. If the accretion has merit, then normally it should not be removed, even in the interests of historical or architectural purity. The fact that Rogers committed his design philosophy to writing, as helpfully demonstrated by Dr. Freeman adds historic and architectural interest to this particular screen, as does the presence in the sanctuary of other work by Rogers, which is to remain.

103. Answering the second *Bishopsgate* question he concluded that there would be an adverse effect from removing the screen.

104. The core of his judgment is as follows:

To compel the petitioners to retain this chancel screen, would, notwithstanding its craftsmanship and its determining effect on the character of the interior of St. John's, conflict with the realities of present—day liturgy, and would prevent St. John's from achieving the evangelical break-through that is within their grasp. As stated in Re St. Luke the Evangelist, Maidstone:

“The recognition that the Church should control the internal ordering of buildings used for worship is in itself a recognition of the freedom to worship. A degree of flexibility to meet liturgical requirements is essential for effective ministry. To impose too rigid a restriction upon internal alterations is to run the risk of crossing the dividing line and interfering with that freedom” .

Sadly for conservationists, that freedom requires in this instance the removal of the chancel screen and the opening up of the chancel. To decide otherwise would be to depart from the guidance in paragraph 8.12 PPG 15, which I have already set out, that due weight as a material consideration should be given to proposals which:

“are necessitated by a change in the worship needs of the congregation”.

105. I will further consider the relevance of these cases when I consider the third Bishopsgate question.

The importance of the church from the point of view of its architectural and historic interest

106. As set out above, the church is listed Grade II*.³⁶ As explained in paragraph 3.6 of PPG15, Grade I and II* identify the outstanding architectural and historic interest of a small proportion (about 6%) of all listed buildings. Of the 428 listed buildings in the Borough of Reigate and Banstead, 5 are Grade I (three of them churches) and 18 are Grade II*.³⁷

107. It is appropriate that I should set out the whole of the listing. I have emphasised those parts which are most material to this petition:

***Chart Lane, Reigate.** The medieval church is of various periods: the arcades date from c.1200 to the C14, the S chancel chapel is also C14, and the rest is mainly C15 but with a late C13 N aisle W window. The N vestry was added in 1513. There was very extensive restoration in the C19: the first major restoration was in 1845 when Harry Woodyer renewed much of the stonework including the sedilia and piscine in the chancel, fitted new stained glass and restored the mutilated rood-screen. In 1874-7 George Gilbert Scott Junior. was responsible for new roofs, repairing the N arcade, rebuilding the S arcade stone by stone, refacing the tower and providing it with a new top, providing a new E window, a reredos made by Farmer & Brindley, decorations by Burlison & Grylls, new seating and other repairs.*

***MATERIALS:** Local coursed stone with Bath stone for the facing of the tower. Horsham slates cover the roof on the S side, reconstituted stone slates the N.*

³⁶ The information about the number of listed buildings in the Borough of Reigate and Banstead is contained in the Reigate and Banstead Borough Council Local Plan. I guess that Reigate Parish Church is included in the statistics as a Grade II* listed building.

³⁷ When the petition was lodged, it was listed Grade B, Grade B was a listing status which dated from the early days of listed building control and was considered to be the equivalent to Grade II*. In its representations to me the Society for the Protection of Ancient Buildings suggested that the building was of such quality to warrant being listed as Grade I. On 24 June 2010, the list was amended – in effect, updated – and the church was listed Grade II*.

PLAN: *Nave, aisles, W tower, chancel, N and S chancel chapels slightly shorter than the chancel. N vestries and organ chamber, S porch, kitchen N of the tower.*

EXTERIOR: *The dominant features are Perpendicular in style, notably the three-light panel-tracery windows in the S aisle, the two-lights one with depressed heads in the N aisle and the tower with narrow, two-light belfry windows. The tower also has angle buttresses, an embattled parapet and a NW stair-turret which rises above the battlements. The rest of the church has plain eaves and no parapets. There is also no clerestory. The E end offers the most striking elevation with elaborate windows in the style of c.1300 in the E walls of the chancel (five lights) and its two aisles (three lights each). The nave, S aisle, and the two chancel aisles are under their own gables, whereas the N aisle has a lean-to roof which forms a continuation of the N slope of the nave but at a shallower angle.*

INTERIOR: *The arcades form the most important and oldest part of the present fabric. The piers are not aligned and have a different rhythm between N and S. The earliest work is found at the SW end and appears to have been built under the influence of the newly-completed work at the Canterbury Cathedral choir of 1175-80. The piers vary in shape with round, octagonal and quatrefoil forms all in evidence and with a wide variety of foliage decoration which demonstrates the transition from Norman to work of the C13. The N arcade has double chamfered pointed arches whereas the S one has moulded arches. The N arcade is slightly later than the S one. The nave seems to have been extended eastwards in the early C14 with the break in the two schemes evident in the foliage of the easternmost S pier where the W half represents the original respond and the E part belongs to the extension. On the N the two easternmost arches are C14. The Perpendicular work, so evident externally is found in the tower arch, with three orders of shafts and the two bay chancel arcades with their typical piers of four shafts and four hollows. On the second floor of the vestry of 1513 is the Cranston Library (see History below).*

PRINCIPAL FIXTURES: *A late medieval, but much restored, screen of one-light openings stretches across the entrance to the chancel and its side chapels. The piscine and sedilia are C14 work, reworked in the C19. There is an extensive collection of CF17 and C18 monuments. The largest and most impressive is that to Richard Ladbroke (d.1730) in the N transept, signed by Joseph Roser the Elder, a three part composition with Justice and Truth flanking the deceased who is in Roman dress, below is a powerful relief of disarticulated skulls and bones. Sir Richard Elyot (d.1608) and his son (also Richard, d.1612) are depicted one above the other in a two-tier monument, the former reclining, the other lying on his back at prayer. This monument has been rearranged. The kneeling figure of Katherine Elyot (d 1623), sister of Richard, had been moved to the arched recess of the sedilia on the S side of the chapel at some stage. Stone reredos with the Apostles under crocketed gables which reflect the style of the mediaeval sedilia and piscine.*

SUBSIDIARY FEATURES: *An attractive timber lynch gate of 1908 with a stone base and tiled gamrel roof.*

HISTORY: *The standing fabric shows the church was in existence by c.1200 but it probably had earlier origins. In the C12 it was presented to the Augustinian priory of Southwark. The main phases of building are outlined in Dates of Main Phases above. In 1701 the Cranston Library was founded in the small chamber over the vicar's vestry by the Rev. Andrew Cranston, vicar 1697-1708. It is said in the church guidebook to be the first public library in England and has over 2,400 volumes. The main C19 restorations were undertaken by two leading architects. The first in 1845 was by Henry Woodyer (1815-96). Woodyer, having considerable private means, was a gentleman-architect who based himself at Grafham, Surrey. He was pupil of the great church architect William Butterfield and established a strong reputation himself for his church work. The greatest concentration of his work is in Surrey and the adjacent counties. His masterpiece is often considered to be Dorking parish church. GG Scott jun. (1839-97) was the eldest son of Sir George Gilbert Scott. He commenced practice with his father in 1863. By the 1870s was a leading church architect in his own right and was one of the key figures in the development of the Gothic Revival, helping to steer it away from the florid exuberance characteristic of the mid-Victorian years. Mental instability cut short a brilliant career and he produced little architecture after the early 1880s. The restoration work at St Mary Magdalene is often criticised for its severity, notably so in Ian Nairn's unduly acerbic entry in the Surrey Buildings of England volume. Wholesale renewal of medieval fabric was common in the 1840s when the form of medieval work was considered important rather than preserving the ancient fabric itself. Scott's careful rebuilding of the S arcade is more typical of the later Victorian attitudes to conservation so his refacing the tower with a type of stone from far afield is somewhat surprising.*

108. A recent innovation of the listing system, and one which is very helpful, is that the reasons for the listing (and at a particular grade) are given. In the case of this church, the reasons are as follows:

- *Substantial and architecturally important medieval fabric stretching back to C1200;*
- *A number of surviving medieval fixtures and C16 and C18 monuments of note;*
- *Restoration work by two leading C19 architects.*

109. I need to explain the reference to *Nairn's unduly acerbic entry in the Surrey Buildings of England volume*. The reference is to the entry in the *Buildings of England: Surrey* (1st Edition 1962; 2nd edition 1971) by Ian Nairn and Nikolaus Pevsner.³⁸ The entry begins:

ST MARY, SE of the town centre, on a slight hill, the same relative position as at Godstone. Big, the standard type of South-East England town church – nave without clerestory and wide, separately roofed aisles. A bad job outside. The detail is nearly all new, mostly by Woodyer in 1845, but also George Gilbert Scott Junior in 1877-81. From the outside effectively all Perp – tower, aisles, chancel, chapels early C15, two-storeyed NE vestry built as a vestry c.1715 (a brass plate in the chancel commemorates a benefaction in this year). The S aisle windows are three-light Perp with panel tracery. The S chapel is Dec (claim form. the piscina and a recess with ogee arches inside), the windows renewed. The tower was refaced in Bath stone by Scott and wears an untrustworthy Cotswold look, but in fact most of the detail represents original work.

All this gives no indication of the chief interest of the church, the unexpectedly noble arcades of c.1200 still intact in a typically restored and thumbed-over interior ... by Scott ...

110. There is no further reference to restoration, save in regard to the screen:

SCREEN. Straightforward Perp, with long, thin bays (six bays-plus-door to the N chapel, eight-bays-plus-door to the chancel and S chapel). Terribly restored.

111. It seems to me that, from the context, where Nairn wrote *terribly restored* he meant *extensively restored*. However I do consider that this is part of the entry which gives it a degree of acerbity – certainly this is the view that English Heritage takes. In a letter dated 30 June 2010, English Heritage tells me that the amendment to the listing is part of a systematic conversion exercise (i.e. from letters to numbers):

This has been accompanied by a new list description; although prepared without a visit, drawing on the published sources, it happens to have been written by Geoffrey Brandwood, an acknowledged expert on the Victorian

³⁸ The entry is the same in both editions.

period in church furnishing. I attach this description at Appendix I and would respectfully draw the Chancellor's attention to his sympathetic treatment of the nineteenth-century phase of the church's history, in which (see the section called 'History') he specifically criticises Ian Nairn's 'unduly acerbic entry' in the Buildings of England. The screen receives appropriate mention both as a mediaeval furnishing and as a restoration, its furnishings being given as one of the reasons for its listing and grade.

112. This confirms that the reference to Nairn's comments has reference to the screen. I am bound to say that it seems to me pretty extraordinary to undertake an exercise of this kind without visiting the church.

The significance of the screen

113. This brings me from a consideration of the significance of the building generally, to a consideration of the particular significance of the screen.
114. In this consideration I am of course assisted by Mr Harrison's Report. In his Report he dates the screen on stylistic grounds to the late 15th century. There is no reason to doubt this, and we know from a print in the church that it was in place in 1828.³⁹ Thus, albeit restored – a matter I shall come to in a moment – it has survived from a time before the Reformation.⁴⁰ This is quite remarkable.⁴¹ What is particularly remarkable

³⁹ The nineteenth century prints are not all dated and not entirely consistent – it appears that a degree of artistic licence was involved in at least some of them. I take Mr Harrison's **Plate 2** to show a three part screen in about 1828.

⁴⁰ Mr Andrew suggests that *it is difficult to assert with certainty that the screen either was or was not in its current position at the reformation*. As I understand his point, he says this because there is no reference to the screen before 1803 and no picture of it before 1828. But absent some suggestion that it is a mediaeval screen that came from somewhere else or that it was originally somewhere else in the church, there is no reason to suppose that it was not installed in its present position at the time when it was originally made. Moreover, one would not expect a screen of this kind to have been situated anywhere else in the church.

⁴¹ In 1803 the Vestry resolved that *the screens between the church and the chancel be taken down* (see the *Statement of Significance* quoting Hoye's *History of Reigate*. It would be interesting to know what led to its reprieve. Once it survived into the Victorian period it was evidently, in this location, safe – it being twice restored; but this would not I think necessarily have been the case. And in *English Church Screens* (1936), Aymer Vallance laments the continuing loss of church screens, some through fire, some by authorisation of faculty *but more often in defiance of all lawful authority*.

is the survival of a three part screen (recognising, of course, that not all churches have three aisles which can be thus screened). I asked English Heritage if they could supply me with information about this, and they have replied as follows:

In the time available it has not been possible to undertake a full study of all mediaeval screens in South East England. The area for which descriptions could be studied was Kent, Surrey, Sussex (East and West), Hampshire and the Isle of Wight. We are confirmed in our belief that screens crossing the whole width of an aisled church are extremely rare in the South East: there may be four such in Kent (i.e. churches with at least one aisle, and in which a screen passes across more than one vessel: at Boughton, Eastchurch, Leeds, and Shoreham), and one in Hampshire (St John in the Soke in Winchester), besides Reigate. In not all even of these cases are the screens of consistent design and date, although all are mediaeval and do not appear to have been brought in from elsewhere.

There are rather more examples of chancel screens in the South East, i.e. those which cross the western end of the chancel only: perhaps a few dozen are mediaeval or incorporate mediaeval work in situ. Using the Building of England database, we identified 17 mediaeval screens in Surrey (the county in its original extent), but a number of these have been introduced at a later date (e.g. Gatton) or re-used in an entirely replaced church (e.g. Hascombe). The Buildings of England evidence does, though, confirm the view that the vast majority of mediaeval screens, of any position or purpose, are Perpendicular. 15 of these 117 in Surrey are placed in this period, a proportion which holds good for the country as a whole. The same database gives a figure of 141 for mediaeval screens in the six counties mentioned, with about half of this figure in Kent, but these figures certainly include screens which close off transepts, aisles or chapels as well as those which form a major east-west division.

*In the country as a whole, a well-known list of church screens by F Bligh Bond and Dom Bede Camm (Roodscreens and Roodlofts, 1909) contains 2000 entries; it appears quite a number of these were not mediaeval, or they have since been lost, as the national figure for these in the Buildings of England is 1750. In this context, the South East's 141 is a low figure, far below what would be expected *pari passu* in relation to its numbers of listed or historic structures: these counties have 51,634 listed buildings; the South East as a Government region - that is, these six counties plus Berkshire, Oxfordshire and Buckinghamshire - has 20% of the country's total of listed buildings (76,098). The percentage for listed places of worship is a little lower, but still makes the 141 look a low figure. One has the impression, also, that the figure for screens of common design spanning a nave and two aisles would be substantially higher in some other regions (especially the South West). This imbalance suggests two things: it was comparatively easy for the Reformers to reach and destroy screens in the South East and systematic design of screens may have been commoner where churches*

were wholly rebuilt on a consistent plan at a large scale, which is typical of the boom areas where wool was produced.

It is clear even from this limited excursion into the evidence that the screen at Reigate is a rare artefact both in Surrey (where as a tripartite screen it is unique) and in the wider context of the South East.

115. It seems to me that the survival of the screen, and the rarity of such a survival, mean that the screen is both an item of considerable intrinsic importance and also as something contributing importantly to the overall importance of an important listed building.

116. I turn to consider the fact that the screen has been extensively restored.

117. It is first of all necessary to consider how extensive that restoration is. Mr Harrison's overall assessment is as follows:

As an overall assessment of the framework only three posts are lost out of twelve, two transom pieces out of six, one and a third sills out of three, and one third of a head out of three. All four doors survive with the loss of only two panels (possibly 5) and all the tracery survives except two sections in the south aisle and one in the north aisle.

On a percentage basis to the nearest 5%, I would suggest that 60% survives in the north aisle, 90% in the nave and 65% in the south aisle.⁴²

118. His conclusion was:

Conclusion

To answer the question of what is the extent of original woodwork within these screens, my findings are that what survives is essentially three

⁴² Mr Andrew has queried the 90% figure in the light of an 1828 watercolour which shows some of the vertical bars of the screen having been removed. Mr Harrison had a copy before him of this watercolour when he prepared his report and he was certainly aware of the fact that the vertical bars (mullions) were not shown. Mr Harrison is an expert in these matters whose report has been produced by the petitioners. I could not properly without clear evidence conclude that he has fallen into error. I think that I would need another expert's report to that effect before I could consider rejecting his evidence. I note that Mr Andrew does not seek to put forward a figure of his own. Moreover, it is not the precise percentage which ultimately is important, but the thrust of Mr Harrison's report.

original screens with some major renewal and repair. This is quite different from three new screens containing some original woodwork as was implied by surviving records

119. One approach, in the light of this Report, is to say that the screen being “essentially” a mediaeval screen (albeit restored) it should be treated as such, with no discount because of its restoration. I think that this is unrealistic. I think that it has to be recognised that the screen is less valuable than it otherwise would be if it had survived unrestored. It would – had this been the case – been something very special indeed and, frankly, I cannot imagine the Petitioners bringing forward a scheme to move it. On the other hand, it does retain, in each part, a majority of original work. It is still evidently very significant, despite its restoration.

120. In this context, I derive some assistance from the guidance of English Heritage set out at paragraphs 51 to 60 above. This emphasises that authenticity does not depend upon the survival of historic fabric. In the present case it means that the authenticity of the interior of an historic building that is Reigate Parish Church derives from the three part screen that has been in place for over five hundred years. It may be that one can contemplate an alteration which compromises that authenticity more readily in circumstances where less historic fabric is involved than more, but the guidance does serve to emphasise the importance of the physical presence of the object over its composition.

121. Finally there is in the present case the further complication that one reason for the history of the church is *the restoration work by two leading C19 authorities*. As Mr Harrison’s Report shows, the screen was restored by Henry Woodyer and George Gilbert Scott Junior. Since the screen was apparently *mutilated* before Woodyer

restored it, I do not think that we are in a position to say that the Victorian restorers took away anything from the screen; it is apt therefore to consider the work of both restorers as adding to it. Nonetheless I am bound to say that in the scale of things, it seems to me that the important contribution of the Victorian restorers as regards the screen was its preservation. I think that specialists may come to visit Reigate to look at the restoration as a whole: but most important in this regard would be, I should think, the other work that Woodyer and Scott executed in the church. It is not suggested that the restoration of the screen was of particular significance of itself. Thus I do not think that too much additional weight attaches to the significance of the screen arising from the work of the restorers. However that some importance does attach to the restoration is evident from the Victorian Society's representations: *The chancel screen is part of Woodyer's unusually sensitive approach to the fittings of the church of St Mary Magdalene Reigate, where he returned the reredos, sedition, piscine, chancel and aisle screens.*

122. I am a little surprised by the approach of the Council for the Care of Churches as set out at paragraph 32 above, where it indicated, before Mr Harrison's report had been prepared, that it did not think that a detailed study of the screen was necessary before the question of relocating the central portion of it could be addressed in principle. It is not clear what view at that stage it took as to the significance of the screen: the phrase *there is some ancient timber* suggests that it did not view it as a mediaeval screen. I note also that the English Heritage member of the DAC also felt able to support the moving of the central section of the screen before Mr Harrison had carried out his study. I think that what may have happened in this case is that, to a degree, the cart was put before the horse; that views were taken about the acceptability of moving the screen

before a detailed assessment of its significance had been made, and that when further study revealed that the screen was more significant than had originally been thought, it was perhaps difficult to revisit those earlier views with an open mind. I am aware, of course, of the Parish's position, which is that the age and authenticity of the screen is essentially irrelevant to the acceptability of moving the central section of it. However I do not consider that this approach is correct.

The significance of the pews

123. The *Statement of Significance* helpfully sets out the basic historical background:

Pews have not always been a feature of the church though it is likely that they have existed in various forms from around 1700, having been replaced several times since. In 1770 the body of the church was re-pewed out of a legacy bequeathed by Mrs Mary Okes of Redstone, augmented by subscriptions. There is a print of the church interior in Hooper's History of Reigate, showing box pews and the Parsons gallery (a copy also in the vestry). As the Parsons gallery was removed about 1845, the print must pre-date 1845 indicating that the box pews also pre-dated 1845. Another print in the vestry (undated) shows different box pews. The likelihood is therefore that at least 3 different sets of pews predate those existing. Most of the current pews are Victorian and appear to originate either from Woodyer's or Scott's restoration work (or both) in the mid to late 19th Century. Many are showing signs of deterioration and are in need of replacement or restoration. The pews down the north side of the nave were installed during the late 1960s and early 1970s. Previously there had been rush-seated chairs there.

124. It has become clear that the pews are by George Gilbert Scott Junior.

125. On balance – I do not think that it is entirely clear – I am of the view that the pews did not play a part in the reasons for listing the building (Scott's pews cannot strictly be described as part of his restoration). However this may be, Scott's pews are evidently of value, as English Heritage makes clear in their letter dated 4 June 2010:

We agree that the pews have quality and that this is more than normal in Victorian oak pews. George Gilbert Scott Junior was a very fine designer, and the sharp cutting of the poppyheads show an eye for the emerging aesthetic of the Arts and Crafts Movement of which he was forerunner. There would be harm to the significance of the church by their removal, and it would be desirable for examples of them to be preserved.

126. The Victorian Society says:

George Gilbert Scott Junior, who is recorded as having restored the church in the 1870s was one of the most talented but least prolific church architects of the late 19th century, carrying through Victorian Gothic style beloved of his father Sir Gilbert Scott into new realms of subtlety and refinement. The younger Scott's work is now so rare that any surviving furnishings designed by him are of considerable interest. The pews at Reigate are of good oak construction and display a pleasing if simple design with miniature buttresses; the frontals, with their carved ends bearing stylised foliage and Marian monograms, are of particular quality.

127. The pews are intrinsically attractive and are fitting furnishings to be viewed together with the historic screen. That they were so perceived is evidenced by the fact that, as recently as the 1960s/1970s, chairs in the north aisle were replaced with pews which replicated Scott's design. Some additional significance evidently does attach to them as being designed by George Gilbert Scott Junior, but, to a degree, this element of their interest can be protected if arrangements be made for the storage of some of them, as English Heritage suggests.

Have the petitioners proved a necessity for some or all of the proposed works, either because they are necessary for the pastoral well being of St Mary's or for some other compelling reason?

128. The parties opponent and those who have objected to the proposals in whole or in part do not essentially challenge the case the petitioners put forward on need – their point is that the need does not outweigh the harm. Nonetheless a number of points about need

have emerged and the discussion below takes into account the points that objectors have raised.

129. The need for moving the central section of the screen and for replacing the pews in the nave with chairs can be articulated generally as being based on the desire better to accommodate the worship presently carried on in the church within the existing building by removing what are perceived to be obstacles to it. However the two main elements of the re-ordering do have different justifications and the question of need is in my judgment appropriately addressed separately in respect of each element.
130. The short point on need as regards moving the screen is that the numbers of people coming to church is such that it is no longer possible to accommodate them all in front of the screen. It flows from this that it is necessary for people to sit behind the chancel screen. When, however, they do this, they are cut off by the screen from the main body of the congregation and from those conducting the service, who are in front of the screen. The solution which was promoted and carried through in the 1980s worked on the basis that Reigate was a bi-cameral church but that this need not present a problem because services could be held in the larger of the two *camerae* or chambers – in front of the screen. It no longer works because it is necessary to use the two chambers to get everybody in.
131. The logic of this is to get rid of the screen altogether and, indeed, the Petitioners evidently do not shirk from this logic. They **would** like to get rid of the screen altogether. However reflecting the concerns of the heritage bodies, and in a spirit of compromise, they are now only proposing to remove the central part of the screen.

However this does mean that those attending services and who sit behind the two parts of the screen that remain *in situ* will still be cut off from the larger body of the congregation, although not quite to the same degree as they are now if they sit in the same place. This is a drawback to the compromise, as the Petitioners recognise.

132. It seems to me that removal of the central portion of the screen would achieve, in terms of the accommodation of the congregation, a worthwhile benefit. Nonetheless it is a lesser benefit from this point of view than would be achieved by moving the screen in its entirety. This fact does help to give a context to the weight of the need prayed in aid. The way in which the situation of those who would remain, to a significant degree, cut off from the main body of the congregation would be addressed is by the use of the TV monitor screens. But that, of course, is the way in which the situation is addressed now.

133. One of the important questions which I asked at the outset of these proceedings is what would happen if a faculty were not granted and permission to move the central portion of the screen were not granted. Mr Andrew responded as follows, and it is appropriate that I should set out his answer in full:

As the Deputy Chancellor himself rightly suggests, the question of what the faculty petition (at least in respect of the central section of the rood screen) is refused is not one that we have given a great deal of thought to thus far. The straightforward answer, of course, is that we will not be able to 'do' very much at all — we will simply be forced to try and make the status quo work as far as we possibly can, much as we do at present, seeking to make the most of the worship space and the mission potential of the church building within the very significant constraints of a building designed for worship and mission in a different era and for a very different theological and liturgical tradition. In our considered view the current position of the rood screen imposes a very significant and quite unnecessary impediment to the growing mission and worship of the Parish Church — a church committed to reaching out into our community with the transforming love and grace of Christ not only today but for the coming centuries.

The question raised by the Deputy Chancellor might be best answered by revisiting and seeking to give more clarity to the question 'what will the Parish not do' (or not be able to do) if permission for this aspect of the scheme is refused. Amongst the many answers to this question (some of which are likely to emerge in coming years should the faculty petition be unsuccessful) I would draw the Deputy Chancellor's particular attention to the following:

If permission is not granted, the congregation of St Mary's would not be able to worship in an environment designed (as far as reasonably practicable) to foster and enhance a unified sense of worship across the church building, but would have to 'make do' with a significant division between two parts of the worshipping community. This division is becoming more acute as the congregation grows with worshippers sitting in the chancel area each Sunday at our 10.30am service. In our largest services (including Christmas services) up to 180 people can be seated in the chancel with a very poor view of the rest of the congregation or of the clergy and others involved in the liturgical action of the service. Some feel the sense of detachment that this fosters most acutely during the Eucharist when the current arrangement prevents us from the sense of gathering around a common table. Quite what a significant impediment this is to worship is not easily deducible for drawings and I look forward very much to being able to show the Deputy Chancellor the scale of the difficulties when he visits the church in the near future (I await your proposals in this respect).

Although the recent provision of television style monitors in the chancel has improved the flow of information into that area, some have suggested that this has also served to increase the sense of detachment from the rest of the congregation, giving more of a sense of a 'separate room' than before. The only sensible means of improving this situation, whilst enjoying the privilege of the large seating capacity of the church, is the relocation of the rood screen.

Furthermore, if permission to relocate the rood screen (or indeed to replace the pews) is not granted the church building would not become a more attractive and flexible venue for wider community gatherings and events — able to be used by the congregation of St Mary's for worship and social gatherings and outreach/mission events as well as by members of the wider Reigate community as a community space to serve the town. The letter from Leslie Olive (Reigate Summer Music and the English Arts Choral), reproduced on pages 16 & 17 of the original Project Outline document, and the attached letters from two local headmasters, whose schools make regular use of the church building, illustrate well the desire within the wider community to see the church reordered and made available as a more flexible community building.

134. I am able to accept the thrust of all this insofar as it relates to the screen (the issue I am presently considering) but I do not think that I can avoid considering further the position should a faculty not be granted. It is inherent in the jurisdiction that I am exercising that, because the building in worship is an historic one and of architectural importance and is listed, there are constraints upon what may be done with it. The Petitioners have accepted, to a degree, those constraints by bringing forward the compromise scheme. If it be postulated that the screen is of such importance that it cannot be moved – which must be a possible conclusion – it is possible to consider how this would affect worship in the church. It seems to me that it would carry on as it does now. This would be far from ideal, but it would carry on. The monitors, albeit in a sense (as Mr Andrew points out) increasing the sense of separateness would at least address the practical issues involved. I would accept that arrangements which are less than ideal must act as some deterrent to people attending services, but at the moment the story is one of growth despite those arrangements. Evidently the arrangements for accommodating the congregation are only one factor which determine whether people come to church or not.

135. There is another matter to which I must here refer. These days Society is still seen, I think, as increasingly secular despite the fact that in some places attendances at church are increasing. It is easier to see attendances at Reigate stabilising at around their current numbers rather than continuing to increase. However if they did continue to increase, it would be necessary to consider how that situation would be addressed. The obvious answer would be to have two morning services, and one could be back at a situation where, at least initially, the seating behind the screen was not being used. Whether or not one considers this scenario realistic, it at least points up the fact that the

screen is not the only constraint on the way that the church can be used – size is a constraint as well. I say something more about the seating capacity of the church at paragraph 139 below in the context of considering the replacement of pews with chairs. However, I do not think that the possibility of the congregation increasing in size to a point where it needed to be divided is something which detracts from the case on need presented by the Petitioners.

136. I note that the case on need for moving the central section of the screen and for replacing the pews with chairs comes together in respect of the use of the church for concerts. There is limited space on the platform for performers and the pews are uncomfortable. The case for change is set out by Mr Leslie Olive who is Artistic Director of the Music Trust, the English Arts Chorale and the Reigate Summer Music Festival:

This immensely exciting vision for the renewal of the interior of St Mary's Church offers enhancements which will be of real value for the wider community, particularly the very large number of local people who love to make, or to hear great music in this unique and special building. St Mary's has been the birthplace of so much music, including The English Arts Chorale (in 1980) and Reigate Summer Music Festival (in 1993). It is a wonderful and atmospheric building for music of all kinds, especially for great classical music, and supremely for choral music. But however wonderful the music and atmosphere the building, the overall experience at St Mary's has always been hampered by the lack of flexibility in the use of the spaces, the obstruction of the view of performers caused by the screen, and the miserably uncomfortable pews. The pews may be just about bearable for the duration of a church service, but for a two-and a half hour concert they are a real deterrent!

Rendering this wonderful space flexible, improving its sight lines, and providing comfortable seating will transform St Mary's into something close to the ideal venue for fine performances in Reigate. It will most certainly become a focus for the Summer Festival and a regular venue for The English Arts Chorale; and I feel certain that as so soon as word gets out, there will be queue of other musical organisations keen to benefit too. Speaking for myself, I can hardly wait!

137. I will consider this aspect of the matter after I have considered the discrete case on need in respect of moving the pews.

The pews

138. I accept that pews are inflexible and that the desire to achieve a degree of flexibility does represent a reasonable need. Thus, for example, there would be benefit from being able to hold smaller and less formal services in the nave. I do, however, note that there must be some scope for using the existing area to the east of the screen for these smaller services. This was a point made by the then Vicar in respect of the 1980s re-ordering. I am less convinced by the other points which the Petitioners make. As regards comfort, I accept that pews may generally be less comfortable than chairs. It is very difficult to form objective judgments about the comfort of particular pews. I note in the present case that in the 1960s no-one thought that concerns about discomfort weighed against the installation of pews in the north aisle which replicated the Victorian pews, replacing chairs. During a typical service any discomfort is eased by the fact that a worshipper has to stand up. Because those attending concerts do remain seated for a considerable time, I would accept that the discomfort of pews becomes more important in this context. I will consider the use of the church for concerts further below.

139. As regards the engagement of worshippers with each other, it seems to me that when the church is being used for large services, the configuration must be that essentially of worshippers facing in one direction.⁴³ I use the qualifying word *essentially* to reflect the fact that it is intended that the seating in the nave would be in gentle curves rather

⁴³ i.e. the direction of those in the nave will be facing east and those in the former chancel will be facing west.

than straight lines. As against this, however, must be set the fact that if you are seated “behind the screen” i.e in the former chancel, visual contact with the congregation in the nave would be obstructed by the retained parts of the screen.

140. I note that, on the face of it, the proposals will actually be **reducing** the number of places in the church. The pews in the nave currently hold 200-250⁴⁴, with space to the west of the pewed area for chairs. (In the proposed scheme this space accommodates 57 chairs). Mr Andrew tells me that the chancel can accommodate 200+ on chairs (“permanent” wooden chairs and additional plastic chairs). This gives a total capacity of 500+; and there would be some opportunity to “squeeze up” on the pews. (This element of flexibility deriving from the use of pews is a point made by Mr Ballard). The capacity of the proposed scheme as marked on the plan is 477, although as I count the chairs there are in fact on plan 283 chairs shown in the nave whereas the text indicates 318. Mr Andrew says that *our assessment is that the capacity of the church will not change to any great degree*. I accept that this is true but, on the other hand, I think that the reduction in capacity is a matter of some significance. Probably rather than as a matter detracting from the need, it is appropriately seen as a disadvantage to a degree of the scheme. I shall consider its weight when I address the third *Bishopsgate* question.

Need for moving the central section of the screen and for replacing the pews with chairs

141. What seems to have happened is that the 1980s re-ordering scheme having facilitated the performance of concerts, it has now been appreciated that the church would be even more suitable with the central section of the screen moved and pews replaced by chairs.

⁴⁴ Mr Andrews says *I am told that the current pews accommodate between 200 and 250 comfortably (or rather uncomfortably) but not too squashed*.

I fully accept the Petitioners' point that it is important to encourage the community use of church buildings and I consider that the better use of the church for concerts does properly represent an important strand in their case on need. This said, I must also recognise that the church is primarily a building intended for divine worship.

Bishopsgate Question 2: will some or all of the works adversely affect the character of St Mary's as a building of special architectural and historic interest?

Would moving the screen damage it?

142. Before I do anything else I need to address the suggestion of the Society for the Protection of Ancient Buildings that moving the central section of the screen would damage it. If indeed there were a significant risk of significant damage to the central section of the screen, I would be reluctant to take that risk.

143. The *Report* by Oxley Conservation was prepared by Richard Oxley BSc Dip Bldg Cons MRICS IHBC. His summary is as follows:

The non-destructive inspection [carried out on 14 May 2010] revealed that the screen can be carefully dismantled without causing loss of fabric that would affect the historical significance of the screen and the surviving historic fabric.

It is envisaged from the visual non-destructive inspection that the fabric that would be lost would be limited to four timber pegs and up to thirty nails that secure the door hinges to the screen.

144. The Society for the Protection of Ancient Buildings have had the opportunity of considering the *Report* and "going through it" with Mr Oxley on site. It has obtained the comments of Mr Harrison upon it. I should note first of all that Oxley Conservation's work is well known to, and esteemed by the Society. It makes a large number of detailed comments which I can summarise by saying are requests that, to

minimise the risks of the central section screen being moved, a very strict regime of control be imposed. I am able to say that if the screen were to be moved I would be sympathetic to the imposition of strict conditions. However nothing in the Society's response suggests to me that the risk of moving the screen without significant damage is one that is too high to take. I do not regard the loss of the pegs and nails as a reason for not permitting the central section to be moved.

The proposed works to the screen

145. Paragraphs 112 to 121 above explain that the screen is an artefact of considerable importance which contributes considerably to the character of St Mary's as a building of special architectural and historic interest. Moving the central section damages the integrity of the screen and the way it contributes to the character of St Mary's and, although potentially justifiable on the basis of need, cannot plausibly be presented as not adversely affecting the character of St Mary's as a building of special architectural and historic interest. This is the view of English Heritage and the local planning authority, supported by the Society for the Protection of Ancient Buildings and the Victorian Society.

146. In the *Further Directions* which I gave on 1 April 2010 and in seeking the views of the parties, I permitted myself the observation that *I do not think that there is a dispute that to grant a faculty would be to permit works which would adversely affect the character of the building as a building of special architectural or historic interest.* I then thought that the live issues were the significance of that adverse effect and whether the need outweighed that effect. However Mr Andrew did not accept this. He said:

I am rather surprised by the Chancellor's suggestion that there is 'no dispute' over whether the proposed work would adversely affect the

*character of the building since it seems that the objections are based precisely around such a dispute. Our view has always been that the proposals in the faculty petition, far from adversely affecting the character of the building, will do the opposite and **enhance** the character and aesthetics of the interior of the church. St Mary's is a magnificent building with a rich heritage. Part of this heritage includes the very significant number of changes, extensions and re-orderings that have occurred throughout the church's long history. One only has to view the pictures hanging in the Pickard Vestry (some of which were shown to the Chancellor) to appreciate just how much the building has changed over each century of its existence, whether by the erection and the dismantling of balconies on both sides of the nave, several significant extensions being added to the building, the introduction of various forms of seating at various points in its history or a host of other changes, each of these have added to the character of an evolving and growing place of living and lively worship. Our view in this regard accords with paragraph 3.13 of PPG15, quoted in paragraph 24 of the Chancellor's directions: 'indeed, cumulative changes reflecting the history of use and ownership are themselves an aspect of the special interest of some buildings...' (emphasis in original).*

147. Mr Andrew could also have reminded me of the following passage in the *Church*

Reordering Project: Project Outline:

... we do not believe that these proposals will be detrimental to the aesthetics but rather will create a more attractive and 'spacious' interior.⁴⁵

148. Even considering what is proposed as a matter of “pure” aesthetics, I do not consider it to be an improvement. But I do not think that it is correct to view the matter as one of pure aesthetics; the point is that the screen is now an integral part of the historic fabric of the church.

149. I think (although this is not the point that Mr Andrew is making) that there may be cases where what is proposed does have an adverse effect on the character of the church as a building of special architectural and historic interest but this is offset – entirely or to a degree – by a counterweighing benefit. Again, I do not think that this is the

⁴⁵ Note that these comments were made in respect of the original, more far reaching scheme, which would have involved moving the entire screen.

position in the present case. I think that there is justifiable criticism to be made as to the new position of the central portion of the screen (see paragraphs 151 to 152).

150. These then are my conclusions as to adverse effect in terms of the second *Bishopsgate* question. I think that it will be most helpful for me to express my detailed views about the more precise significance of the adverse effect in the context of my consideration of the third *Bishopsgate* question.

151. There is a further point to consider in respect of moving the central portion of the screen, namely whether its new location is suitable.

152. Mr and Mrs Freeman, Mrs Utting and Mrs Curry are not opposed to the relocation of the central section of the screen *per se*. However they do oppose its new location. They are concerned that the screen will obscure the attractive reredos and that the new enclosed chapel will not be attractive. The Society for the Protection of Ancient Buildings has a similar concern:

... the Society's view is that the space that would be created by the relocated central section of the screen would be very odd indeed and would compromise the careful design of the sanctuary and, particularly, its proportions. The design of the east end of the church has been carefully wrought so that the proportions of the altar are in direct relation to the reredos and its sculpture and to the east window above. The Screen would be significantly higher than the culls of the windows in the north and south walls and viewed both from close by and from a distance would be seen to cut across the glass. The central section of the screen would also be moved to a higher level than the aisle screens thus further disassociating it from its parts. The enclosure formed by the central section of the screen, which the parish plans to use as a space set apart for prayer, would be narrow and wide and in our view, dominated by the screen, and, we suggest, for that reason would be uncomfortable to use. The screen is designed to be seen with space between it and the focal point of the church — the sanctuary. Without the intervening space that it has now, the screen will appear heavy, lacking proportion and finesse. The impact of the screen and the divisions

created by its mullions seen in close proximity to the reredos will look completely out of proportion.

153. I think that the points set out above are well made. However at the risk of straying into a consideration of the third *Bishopsgate* question, I think that it may be helpful to observe that this is the sort of adverse effect that one may have to “put up with” if a proposal of the present kind is otherwise acceptable. Mr and Mrs Freeman, Mrs Utting and Mrs Curry do not tell me what view they would take if the choice were between the scheme not going ahead and the scheme going ahead but unmodified in the way they would liked.

Bishopsgate Question 3: If the answer to (2) is yes, then is the necessity proved by the petitioners such that in the exercise of the Court’s discretion a faculty should be granted for some or all of the works?

154. I have thought long and hard about whether I should permit the removal of the central section of the screen. I have reached the conclusion that I should not. The screen was installed in its current position in the fifteenth century – more than five hundred years ago. It is a remarkable survival. A screen in three parts spanning the central position of the church and the two side aisles is unique to Surrey and rare in the south east. Although restored, it remains substantially a mediaeval artefact. It contributes substantially to the character of the important building in which it was installed, which is also substantially mediaeval. If the central portion of the screen were moved, in my judgement its integrity would be destroyed. I do not think that it can aptly be said that, by putting the central section back in a place which will mean that the screen would continue to have a linear form across the church, the integrity of the screen would be preserved; although I do accept that this is mitigation of the damage to its integrity. I do not think that the need which has been shown outweighs the severe harm that would

arise: this is a matter I address further in paragraphs 162 to 166 below. In reaching this conclusion I have taken into account the mitigation afforded by the fact that the central portion of the screen would be put back in a position so that it would continue to span the width of the church, thus echoing its original configuration. It seems to me that although this would mitigate the harm, it is not sufficient mitigation – the integrity of the screen would be lost and, accordingly, much of what is special about it. I accept of course that the central section of the screen would be physically preserved and that the work would be reversible: I have taken these matters into account in the view that I have formed. I need to say something more about these matters.

155. The preservation of the central section of the screen is evidently necessary if I were to contemplate permitting a proposal to remove it; its preservation would have the further consequence that the works would be reversible.

156. The context in which Sir John Owen expressed his views⁴⁶ about reversibility was that of a petition for a re-ordering scheme. It is apparent that there are “fashions” in these matters and that what suits one generation may not suit a later generation. Against this background it is sensible to make any provision reversible. However the guidance of the Court of Arches as to reversibility is evidently of general application.

157. What the guidance does not do is address how the issue of reversibility affects an assessment of the adverse effect of a proposal and/or a judgment as to whether it should be permitted.

⁴⁶ See paragraph 76 above.

158. It is possible to identify two approaches to this, which are diametrically opposed. The first is to say that if what is proposed is permanent, the fact that the works proposed are reversible is irrelevant to the assessment of their acceptability. Thus in the present case, if the proposal were unacceptable if it were irreversible, it would not become more acceptable because it is reversible. The second approach is to say that in every case of identified need, the fact that the works are reversible is a complete answer to any objection.
159. I think that the correct answer lies somewhere between these two extremes. I think that reversibility goes to the assessment of the adverse effect of the proposals: the harm is less now than it otherwise would be. Further, the possibility exists of the ongoing harm – which arises from the central portion of the screen not being in its original position – being repaired at some point in the future. On the other hand, it seems to me that harm would arise from the removal of the central portion of the screen at the moment that it occurred because the screen could no longer be appreciated in its original form. That harm would continue into the foreseeable future. Doing the best I can, I cannot foresee circumstances in which the screen would be put back.
160. In the present case my judgment has emphasised the importance of the screen in this important building. I do not think that the fact that the works would be reversible really addresses the practical harm that would arise from the fact that everyone visiting the church in the foreseeable future would see it in a severely compromised form. Psychologically the viewer might derive comfort from knowing that the screen could one day be put back, but that would not assist him in his physical appreciation of the building in the present. Of course he could rely on his imagination but that is the case

with many severely compromised buildings and does not meet the point of concern. Accordingly in the present case I do not think that the fact that the works are reversible makes them acceptable.

161. I should add that there is nothing in the *a priori* approach which is inconsistent with the guidance of English Heritage.

162. In the passage from *Managing Change to Significant Places*, the first point made is that which was made by the Court of Arches, namely that it is sensible to make changes reversible, if possible, in order not unduly to prejudice options for the future. The second point made is that there may be occasions when it may be positively advantageous to make changes irreversible – guidance which has no relevance here. The third point addresses crude and intrusive changes which are reversible. It seems to be envisaging arguments that changes which are proposed as temporary being justified – despite being crude and intrusive – on the basis that they are temporary. The *riposte* is that the works risk becoming permanent. Accordingly the guidance does not specifically address the situation with which I am concerned. It is not possible to say what the significance of that omission is. I am not able to say whether that omission is significant.

163. I should say something further about the need because, at least in principle, there may be cases where, however important the listed building or adverse the effect of particular proposals, that heritage concern is capable of being outweighed by the need. In the present case, however, I have pointed out that the existing situation is something that is being successfully made to work, despite the difficulties that it poses and that the

benefits of what will be secured are substantially less than if, as the Petitioners would ideally wish, the screen were moved in its entirety. In saying this I am conscious that the Petitioners may feel that they are being penalised for their success, coupled with a laudable willingness to compromise. I do not think that either reaction would be appropriate. Certainly the Petitioners are experiencing the problems brought about by their success but it is just a fact of life that if the congregation were smaller, the problem would not arise; and although one can perhaps construct theoretical cases in which it is a failing congregation which want to remove a screen, this is not such a case. It would be a stark choice for a Chancellor if the choice were between permitting serious adverse effect on a significant listed building and the congregation either failing or, in an attempt to forestall failure, abandoning the building. This is not the choice I face. In assessing need, I have considered very carefully what the two headmasters have told me. Their letters predate the preparation of the amended scheme, but evidently the thrust of the views expressed remains the same. Evidently both schools make extensive use of the church despite the drawbacks that it may have from their point of view, and I am confident that that use will continue even if no faculty were to issue. I think that Mr Culverwell must be wrong in thinking that there will be an increase in the capacity of the church.⁴⁷ Further benefit would, I think, accrue to the schools from the flexibility in the use of the chancel that will potentially arise if a faculty issue for the replacement of pews with chairs, see paragraphs 175 to 183 below. Necessarily, in the light of their date, the letters do not address the specifics of moving the central portion of the screen rather than its entirety. Thus although these letters add weight to the Petitioners' case, I do not think there is material in them which should cause me to alter the view I should otherwise take as regards moving the central section

⁴⁷ It may be that the original scheme did provide for an increase.

of the screen. Finally I should say that I think that the comparatively modest reduction in capacity that will result from the proposals sounds, to a degree, against the granting of a faculty; as does the fact that, to a degree, the new chapel would not be entirely satisfactory from an aesthetic point of view.

164. I am, however, well aware of the general argument in favour of permitting changes in churches, even ones adverse to the historic fabric, on the basis that it is only by securing the worshipping community within a church can its long term future be secured. I am conscious also that the church is primarily a House of God and that as a generality, changes to accommodate the needs of the worshipping community – presented to me here with its general support – should be accommodated if possible. If this is not done and the church does “go under” it may either lead to the church falling into decay; or to the church being put to some other use - which might lead to a need for worse heritage compromises being accepted than those which may be the subject of controversy at an earlier stage. I also accept that there can be no grounds for complacency even as regards a successful church like St Mary’s, Reigate. However, where the adverse effects are as significant as I have found them to be in the present case, I do not think I can properly find sufficient need to outweigh the harm in the general argument that I have adumbrated. Mr Andrew has referred me to the observations of Sir Roy Strong, who is well known as a great supporter of England’s cultural heritage. He has said that *church interiors have always changed* and has urged taking a robust view in respect of modern proposed changes. However there is evidently a considerable difference between one of his examples, *hassocks made by*

Auntie Maud (where there may be general agreement that a robust approach may be appropriate) and a screen which is essentially mediaeval.⁴⁸

165. For completeness, I need to add as regards the issue of need that I am not persuaded of the need to move the central section of the screen even if one could take into account in the balancing exercise the benefit that would arise from the enhanced ability to stage concerts which would flow from moving the central section of the screen **and** from replacing the pews with chairs (if permitted). An enhanced ability to use the church for concerts is desirable and therefore weighs in the balance. Nonetheless I think that it would be an odd result to the balancing exercise if the need to move the central section of the screen were not established by the primary liturgical and pastoral need but were established when one added in the ability better to stage concerts.

166. In *In re St Luke, Maidstone* the Court of Arches considered that the changes that they were permitting (removal of the pews) would not adversely affect the building. However it went on to say:

We think it right to point out that, even if a decision on the second question had been different, we would have concluded on the third question that we should exercise our discretion in the petitioner's favour. Here we have to balance the claims of worship and the claims of conservation. It is a material factor to understand that conservation of use for the original purpose for which the building was erected must be an important consideration. There is a possibility that if this congregation and this church is not able to develop its worship and mission, and continues to be inhibited by the seating arrangement, it will seek to move elsewhere. An abandoned church is of little use to the Church or to conservationists.

167. The *possibility* of the congregation moving elsewhere does not seem the strongest case of need, but there was evidently some evidence to that effect. Moreover, significantly,

⁴⁸ It seems that Sir Roy feels that, generally, pews may receive undue protection. Whatever the generality, it will be seen that in this case I am prepared to contemplate the removal of the pews (see further) below.

the building was listed Grade II (i.e a listed building not of the highest quality). Finally, it is not possible to say what degree of harm the Court notionally postulated in its alternative scenario (on the face of it, a situation where its assessment was that the borderline into harm was just crossed).

168. I have reached the conclusion set out at paragraph 153 above by applying ordinary balancing principles, weighing the adverse effect of the proposals against the need. It will be apparent that if, as a result of Sir John Owen's guidelines in *In re All Saints, Melbourn* some special burden of proof has to be satisfied before works adverse to a listed building be permitted, I would not be satisfied that that burden has been discharged.

169. I am conscious that in the view that I take I differ from the conclusion reached by English Heritage. Let me begin by explaining their approach as set out in its letter dated 4 June 2010.⁴⁹ This is a screen which justifies the description *largely mediaeval*. In its view its interest has been reduced *slightly* by the substantial nineteenth century work. The screen *contributes very substantially to the character of the mediaeval church*. Mediaeval screens extending across a whole three-vessel interior are extremely rare in South East England. The proposal to move the central section of the screen to a new location within the church is harmful. However, such harm does not involve substantial harm to a heritage asset in terms of HE9.2 because:

The context in which 'substantial harm' is discussed, particularly HE9.2 where the possible arguments include the total unsuitability of the structure for 'any reasonable use', suggest that 'substantial harm' should usually be taken to refer to major transformation or degradation of the heritage asset,

⁴⁹ Since English Heritage made its initial assessment, the policy of the Secretary of State has changed. However it is evident from their letter dated 4 June 2010 that it considers that assessment justifiable under the terms of the new policy. English Heritage tells me that the crucial new sections of PPS 5 *simplify, but do not generally render more exacting* the requirements of the previous policy.

which might be in contemplation because the last resort has been reached. Common sense would not put the Reigate proposal in this category, unless the screen were to be considered as a heritage asset in its own right

170. English Heritage is right, it seems to me, not to regard the screen as a heritage asset in its own right. It is clear from Annex 2 to PPS 5 that heritage asset in this context means the listed building.

171. Nonetheless, I am surprised by its judgment that moving the central section of the screen would not lead to substantial harm to the heritage asset (the church) given what it has said about its significance. However this may be, these are evidently matters of degree, and the fact that HE9.2 is not engaged would not of course mean that the proposal would be acceptable under HE9.4, just as the fact that if it **were** engaged, this would not mean that the proposal would necessarily be unacceptable.

172. I note in this context that the local planning authority – whose decision it would be if the ecclesiastical exemption did not apply⁵⁰ – take the view that the proposals are not acceptable. I was concerned that the view which the local planning authority initially presented was one sided i.e it set out a judgment as to harm perceived to arise to the listed building but did not take into account the need which might justify that harm. However the position has now been clarified for me as follows:

The Borough objects to the faculty being granted, in accordance with delegated powers under Standing Orders and the question of need has been fully considered. It is a corporate view and the official view of the Borough Council. Whilst it is a delegated matter, the proposal was taken to the Central Area Member's Panel where a negative response was received and concern was expressed about the proposals. The Head of Building and

⁵⁰ Subject to appeal to the Secretary of State, the local planning authority emphasised that it was not uncommon for there to be a disagreement between the local planning authority and English Heritage and cited two cases (apparently related to church extensions) where there had been no English Heritage objection but the Inspector had dismissed the appeals.

*Development Services and the Director of Policy and Environment have considered this matter in detail and the issue of appropriate level of delegation.*⁵¹

173. More particularly, it is the view of the local planning authority that there would be substantial harm in terms of HE2.⁵²

174. I am of course assisted by the views of both English Heritage and the local planning authority. It does not seem as if there is any great difference between any of us as to the intrinsic importance of the screen and the church; rather there is a disagreement between English Heritage and the local planning authority as to how that sounds in policy. I am at a remove from that debate and I have reached my decision based on my view of the intrinsic importance of the screen and church as set out above. I do however note, in terms of *The Operation of the Ecclesiastical Exemption*, that I am evidently not less strict than the secular authority. The Petitioners might be concerned of course if it appeared that I were being **more** strict. However, looking at the matter broadly – which in all, I think that one can do – it is certainly not obvious that I am, the view of the local planning authority being what it is.

175. I return briefly to the three cases that I considered at paragraphs 94 to 103 above. I do this because the Petitioners may feel that there have been cases where permission has been given to more significant screens: why not in this case? I think the short answer is that none of the screens in the cases I have identified were as significant as the one with which I am concerned. Having seen it in its new location, I can confirm that the screen in the church of St Helen, Bishopsgate is very fine, but the judgment of

⁵¹ See a letter from the Conservation Officer of the Borough Council to the Registrar dated 26 May 2010. I think that the matter may not have gone to the Members' Panel at the time that I made my initial inquiry.

⁵² I note that this is an overall judgment, taking into account the proposals as regards both the screen and the pews.

Cameron QC Ch was that moving it from its original position did not adversely affect the church. Thus it is not any sort of precedent for me. *In re St John the Baptist, Blackheath* is more relevant, but there was a comparatively modern screen (which arguably should not have been installed in the first place) in a Grade II listed building.

The pews

176. The removal of Victorian pews is very often permitted against a proved need. I think that the reason for this – speaking generally – is twofold. First, the Victorian period is not so far distant that we prize its buildings and furnishings as highly as those of earlier periods; they are a lot less rare than the buildings and furnishings of earlier periods. Second, and linked to the first reason, if the existence of Victorian pews were given a greater “heritage significance” it would make re-ordering schemes more difficult to achieve. The effect of this would not, however, be to benefit of the heritage because by making church buildings more difficult or impossible to use effectively, congregations would be under pressure to withdraw from them and not maintain them.
177. If this is the generality, the English Heritage guidance set out at paragraphs 51 to 60 above is a salutary reminder that the potential importance of nineteenth century pews should not be overlooked; the work of the Victorian Society, among others, has led to a welcome reappraisal of Victorian buildings and furnishings which, until quite recently, were often held of little account.
178. The Victorian pews in St Mary’s, Reigate are intrinsically fine, as is attested by their having been copied in the 1960s. They derive additional interest from being in the design of George Gilbert Scott Junior. Moreover, they contribute to the church in the

way that is set out in the comments of the Council for the Care of Churches, set out at paragraph 32 above. Nonetheless they are not contemporaneous with the building and apart from the Scott connection are not **particularly** special. The “archaeological” interest, so to speak, of the pews being by Scott can be addressed, as I have noted, by a number of them being preserved. Against the need for flexibility set out at paragraphs 137 to 139 above, I consider that, as a matter of principle, the pews could be removed.⁵³ Mr Andrew points out that the Society for the Protection of Ancient Buildings do not object to the replacement of pews with chairs, which obviously indicates that it does not attach the highest significance to them. The Society indeed seems generally happy with the current proposals (apart from, of course, the screen).

179. I am, however, not satisfied about the detail in respect of this aspect of the proposals. Ideally one would seek to ensure that, although taking out the pews would have an adverse effect on the listed building, what one puts back would have a **positive** effect on it. In my experience, this is difficult in practice to achieve.

180. I agree with the comments of the Council for the Care of Churches. I am particularly concerned in the context where I am not permitting the central section of the screen to be moved. I think potentially the screen, although preserved, would have the value of its setting significantly diminished. The new chairs, though a fine intrinsic product, and incorporating wood, are of a functional design which may not be the best for the

⁵³ With regard to the retention of pews, Reigate and Banstead Borough Council have drawn my attention to the decision of my predecessor George QC Ch in respect of the removal of pews at St Bartholomew, Horley. This was a case in which, following a visit, the Chancellor indicated that he would not be prepared to permit removal of all the pews from the nave of this Grade I church. Against this background, agreement was reached between the petitioners and the Borough Council. Because the matter proceeded by way of agreement, there is no reasoned judgment. I have not seen the church. Accordingly I do not derive assistance from this case. I recognise, of course, as a generality, that there may well be situations where the removal of pews is not appropriate.

solution. I appreciate that they are the chairs used at St Paul's Cathedral but that is a very large building which perhaps can "take" such seating rather better than St Mary's.

181. I express my concern about this provisionally because it is not something about which submissions have expressly been made to me. Thus I do not discount the possibility of permitting the chairs for which permission is sought, but only after having further material submitted to me.

182. What I would like to happen is for the Petitioners to meet with representatives of English Heritage, Reigate and Banstead Borough Council, the DAC and the Church Buildings Council⁵⁴ to consider whether the chairs proposed are the best option (viewing *best option* from all points of view) both in the light of the retention of the screen and generally; but against my conclusion that the removal of the pews is in principle acceptable.⁵⁵

183. If an agreement emerged, I would expect that I too would be able to agree. I would wish to have a clear statement of what had been agreed, full details of any amendments to the proposals, and a short statement explaining the reasoning behind the agreement. If agreement does not emerge, I would wish to have a clear statement of the Petitioners' position and the comments of the other parties on that position.

184. What is set out in paragraphs 181 to 182 above is what I want to happen. I consider detailed matters of procedure below.

⁵⁴ This is the new name for the Council for the Care of Churches.

⁵⁵ It would be appropriate for the Victorian Society to participate if they wished to do so; but it might of course be the case that they would not wish to do so, the point of principle having been determined.

Procedure

185. I have considered dismissing the petition on the basis that I would not permit the moving of the central section of the screen and that I had not been satisfied that the replacement of the pews by chairs as proposed in the petition was justified. If I did this, it would then be possible for the Petitioners to bring forward a new petition in respect of the removal of the pews.
186. The alternative course is to issue an interim judgment, and to permit the Petitioners to come back with proposals in respect of the replacement of the pews. If the proposals were different from what is currently before me, I would permit amendment of the petition and order re-citation.⁵⁶ I would also need to have an amended certificate from the DAC.
187. I am taking the latter course, subject to one matter. It might be that the Petitioners would prefer me to dismiss the petition. In particular, I have it in mind that in the light of my decision about the screen, they may wish to consider seeking to appeal, and they might wish to do that sooner rather than later. If the Petitioners do wish me to dismiss the petition as it stands, I will do so if they write to the Registrar indicating that this is what they wish me to do.

⁵⁶ At a late stage of preparing this judgment, I realised that the petition may not have been advertised in accordance with rule 13(4). This, I fear, is my responsibility – I had assumed wrongly that the proposals had been advertised before I became involved in the case after the resignation of George QC Ch, my predecessor. Although in the circumstances of the case, where there has been extensive consultation, this request to advertise is very much a formality, there needs to be advertisement in accordance with the rule if a faculty is to issue.

Concluding words

188. I know that my decision about the screen will come as a great disappointment to the Petitioners. Although they were not able to persuade the local planning authority of the merits of their proposals, they did persuade the DAC and English Heritage. Yet it is I who have to make the decision and not the DAC and English Heritage; the Petitioners will have appreciated that, despite the support of these bodies, their proposals remained controversial and the decision on their petition uncertain. I hope at any rate the Petitioners understand the reasons for my decision. I share their concern that the church “plant” of the past should not inhibit the mission of the church in the present. One always hopes that it will be possible to reconsider the competing requirements of mission and heritage and it is unhappy when they come, as here, into direct conflict. When this happens it cannot be assumed that the direct needs of mission will prevail. I think that the reconciliation is found in the fact that the historic churches which are in the Church of England’s keeping are a physical witness to the faith of successive generations, and those visiting them who are outside the faith may be drawn to it by that witness. The great interest that there evidently is in church buildings⁵⁷ suggests that this is not wishful thinking. As for the immediate needs of a church congregation, their burden and challenge may be both to work within the constraints that the past has imposed upon them as well as seeking to realise the opportunity which their historic building gives them.

PHILIP PETCHEY

Chancellor

29 September 2010

⁵⁷ Witnessed at the time of writing by the TV series *How to Read a Church*.