

# Diocese of Exeter

## Chancellor

**Date:** 4<sup>th</sup> October 2010

**Parish:** St Peter's Church, Bratton Fleming

### JUDGMENT

1. By a petition lodged on the 10<sup>th</sup> September 2009 the team rector and two church wardens for the church of St Peter's at Bratton Fleming near Barnstaple, seek a Faculty permitting extensive re-ordering and refurbishment of their church. The application has aroused strong feelings amongst those who are connected with this church; well over sixty individuals have written in support of the application and a similar number have written in equally strong terms opposing it. The relevant heritage bodies either support or are not opposed to, the scheme as whole, but they do individually make different points against matters of detail. The DAC, having reached a compromise modification of the re-ordering of the chancel area issued a certificate dated 4<sup>th</sup> August 2009 recording that the committee had 'no objection' to the above works subject to three standard and unexceptional provisos. It is of note that the DAC did not decide to 'recommend' the work.
2. In view of the detailed nature of the scheme and in view of the level of controversy that this proposal has attracted, I conducted a site visit at the church on the 11<sup>th</sup> June 2010 and was pleased to be conducted around the building by the team rector and one representative of the objectors, Mr Brian Williams. I am grateful to each of these two gentlemen for their time and courtesy in ensuring that I gained a useful insight into the current layout and the proposed scheme in a manner that simply looking at photographs and plans could not convey.

3. On the 6<sup>th</sup> March 2009 North Devon Council granted planning permission for that part of the re-ordering which involves the construction of an extension adjacent to the North-West end of the church.
4. Whilst there is criticism voiced by the objectors to the original process of consultation carried out within the parish, I am satisfied that all those who wish to contribute opinion on these proposals, be they heritage bodies or individuals, have taken the opportunity to do so within the process conducted by this court. I am grateful to the Diocesan Registry for marshalling the voluminous submissions that have been received.
5. Of the seventy or more individuals who wrote in raising some form of objection to the scheme, three opted to become formal parties to the proceedings. They are Mr Brian Williams, Mrs Rosemary Ridd-Jones and Mr Peter Laurie. Each of these three individuals has produced their own distinct and detailed written submission which, whilst closely arguing individual points, does so in a way that is characterised by professionalism and clarity.
6. In like manner the team rector, the Rev Les Austin, and the other petitioners have presented their case, and responded to the arguments in opposition, with an equal degree of clarity and professionalism. I am extremely grateful to each of these key individuals, on both sides of the debate, for easing the court's task in understanding each of the various points that they wish to make. In the same manner the letters received both in support and against the scheme have assisted the court in understanding the contours of the debate and the strength of feeling, again on both sides, that this application has generated.
7. Given the wealth of detail that is now before the court, I consider that it would be both burdensome and disproportionate to use this written judgment as a place for reciting and rehearsing every single matter of detail that is currently in play. Those who are close to this application are well familiar with that detail and I do not

therefore propose to lengthen my own contribution by rehearsing it in this document. I propose, therefore, to structure this judgment in the following manner:

- a. Historical and architectural context.
- b. The proposals
- c. Opposition
- d. The legal context
- e. Assessment and conclusion on each area of the proposed scheme

(a) Historical and Architectural Context

8. The parish church of St Peter in Bratton Fleming originally dates from the 14<sup>th</sup> century but most of the current fabric was either constructed or substantially re-built in the 18<sup>th</sup> and 19<sup>th</sup> centuries. It is listed as a Grade II building. A major internal re-ordering took place between 1855 and 1861. The architect was John Hayward. Under Hayward's scheme the nave seating, the West end gallery, the choir stalls, the font and the pulpit were all installed. There is archaeological evidence that subsequent to its initial installation, the pulpit was moved and raised to a degree, albeit remaining in roughly the same location within the church. Some twenty years after the completion of Hayward's re-ordering, in 1882 a pipe organ was introduced and placed at the East end of the North aisle in which area it currently remains.
9. Subsequently there have been minor alterations to the building, with the loss of some of the original pews and the installation of a reading desk.
10. On the outside of the building, at the North West corner, a small boiler house has been constructed against the church wall. This structure, which has no architectural significance has long ago fallen into disrepair. The modern boiler that has recently been installed in the church now sits in the vestry at the North East corner of the building, adjacent to the space currently occupied by the organ. The old boiler house is therefore redundant.
11. Bratton Fleming is a modest, as opposed to small, sized Devon village. It has a school, public house and modern village hall. Until recent times it has also had a

Methodist Church building. The petitioners describe how members of the Methodist and Anglican congregations have for some thirty years or more gathered together for purposes of bible study and other joint activities. In 2004 the Methodist congregation decided that they should sell their own building, and join together with the Anglican communion using St Peter's Church for their services. The sale of the Methodist church has produced a fund which is now available for expenditure on the current re-ordering proposals for the church.

(b) The Proposals

12. The proposals which are listed in some 18 sub paragraphs numbered (a)–(r) essentially fall into the following components:
  - i. Demolition of the boiler house and construction of an extension to the North West of the church to house a meeting room, kitchen and toilet facilities. An entrance to this new building will be created in the West wall of the North aisle;
  - ii. Extensively re-order the West end of the church by removing and disposing of the ringing chamber screen and replacing it with a glazed screen and a timber and glass gallery;
  - iii. Remove and dispose of the piped organ;
  - iv. Re-locate the font from its current position near the door on the South Western side of the church to a space at the end of the North aisle (now liberated by the removal of the organ) to create a baptistery area;
  - v. Remove all of the pews; remove and dispose of the wooden platform on which the pews currently sit; create a stoned floor throughout the nave installing under-floor heating where this is possible ; adapting the pews that have been removed by shortening them and fixing pew ends on the end that is currently keyed into the dado; place these adapted pews back in position onto, but not fixed to, the newly created stone floor in the area of the nave to the East of the cross aisle running from the church door in the South West corner; install and use stackable seating for the area to the West of that cross aisle;

- vi. Remove and dispose of the pulpit and the reading desk;
- vii. Adapt the choir stalls and screen to produce one row of choir stalls on each side of the chancel and a reduced area of screen, which nevertheless stands proud of the choir stalls and still maintains the presence of a screen in this area;
- viii. Adapt the South door to incorporate panels of coloured and clear glass;
- ix. Introduce a new sound system and lighting scheme.

13. The petitioners see each of these individual elements as part of an overall scheme, the purpose of which is to open up the church, render its fixtures and fittings convenient for use for worship, secular and cultural purposes. The petitioner's argument, which is made in detail, and only summarised here, is that the layout of the building is no longer fit for the purpose of serving the needs of the worshipping community. The team rector describes how the building gets in the way of the work of the church, rather than facilitating and supporting it. For example, it is said that the nave and space between the screen in the chancel are too narrow for ease of use at weddings and funerals. The pulpit blocks the line of sight for those sitting on the South wall who would wish to see the communion table in its current position close to the East wall. The raised wooden platform on which the pews sit is a tripping hazard. The font is raised too high for observers, particularly children, to see and in any event its base also represents a tripping hazard. The organ, which was never part of Hayward's original plan, blocks out the light that would otherwise flow from the window at the East end of the North aisle.

14. The plan is to create a space which is clear of clutter and, insofar as the pews will now be moveable, is flexible, but in ordinary use, will retain the feel of a wooden pewed parish church. It is proposed that the communion table will normally move forward to a position near the chancel steps, only returning to a position on the East wall if the chancel space is needed for some other function.

15. The West gallery is seen to be an unusual arrangement which has no great function for the current congregation. The plan is to clear up this area and to erect a pleasing design in wood and glass to provide storage and additional seating. The inclusion of glass in the design of the South door is intended to increase the ingress of light to a modest degree, but also, to be more welcoming to those who might seek to look in from outside the building.
16. The provision of a meeting room, kitchen and toilet facilities are put forward as being necessary for a living building in the 21<sup>st</sup> century and are, as this court well knows, now a feature of a growing number of churches within this and other dioceses.
17. Whilst the community who worship at St. Peter's now include members of the Methodist congregation, the application is put forward by the petitioners on behalf of the PCC as one body. No 'special case' is argued in favour of one or more of the elements of the proposal as being necessary for the needs of the Methodist congregation, or for that matter the Anglican congregation, as a separate entity. It is an ecumenical proposal in the full sense.
18. The many letters in support of the scheme speak of the enthusiasm that those who know the church have for what is proposed. The letters that I have read speak of the excitement that is felt by the supporters for the clean, open and flexible structures that will be produced for the congregations use in years to come. The letters come from those who are regular worshippers and also from those who have visited the church or live in the village but are not assiduous church attendees. In short, the proposals command a body of support across the community of those who know this church and this congregation.
19. The Revd Terence Spencer, Superintendent Minister of the Ilfracombe and Barnstaple Circuit of The Methodist Church has written a short letter of support describing how he has been impressed by the way in which the church family in Bratton Fleming have worked with the whole community towards a viable scheme to

provide facilities for a church at the heart of the community in the 21<sup>st</sup> century. He states that careful consideration has been given to suggestions which have come from parishioners concerned not to lose the historic heritage of the church building. Revd Spencer concludes by commending the total scheme and recommends the proposals for approval.

20. In due course, as I will explain, it will be necessary for the court to consider whether what is proposed is ‘necessary for the pastoral wellbeing of the parish or for some other compelling reason’. In this regard it is of note that on the 2<sup>nd</sup> March 2010 Reverend Simon Crittall, Diocesan Ecumenical Officer, wrote to the Registrar enquiring whether there was in any way in which either the ‘Council for Mission and Unity’ or ‘Churches Together in Devon’ could lend support to the petitioners cause either by letter or attending a hearing. On the 3<sup>rd</sup> March the Registrar replied that either of those bodies could write to the Chancellor via the Registry supporting the proposals if they so wished or the petitioners themselves could obtain and rely upon evidence from either body. Despite that invitation no representations have been received from either the Council or Churches Together. In the same manner, the application is not supported by any formal evidence from the Archdeacon of Barnstaple or other senior clergy outside the parish. The Archdeacon is a member of the DAC and was present at the meeting which decided not to object to, rather than ‘recommend’, the application.

(c) Opposition

21. The case of the three opposing parties, and the tenor of the opposing respondents in general, exhibits two basic themes. Firstly a frustration at the process adopted by the incumbent and the PCC in consulting with the congregation and the wider community upon these proposals. Those opposing believe that the proposals were developed under an air of secrecy and that the process of consultation, they would say ‘such as it was’, was unfair and conducted on an ambiguous basis.
22. As with the letters in support, the correspondence opposing the proposals comes from a cross section of individuals, most of whom live in or near the village, some of

whom admit that they may only attend church on high days or holidays, but others of whom have clearly been very involved in either the Anglican or Methodist congregations for many years. Whilst the letters in support seek to characterise those opposing as a small unrepresentative group, the same accusation is made in like terms by the opponents against those in support.

23. In reading the letters on both sides I have been keen to detect how close a connection each writer may have, or may have had, with the worshipping community. Plainly those in support include many currently involved in the life of St Peter's and its PCC. However, the letters in opposition also include a substantial body of those who have been fully involved with the church at least until recent times. Of the three parties opponent, Mr Williams falls into this category having been Churchwarden, Treasurer, co-editor of the magazine and currently a sidesperson, he clearly knows much about the church and its history; Mrs Ridd-Jones does not state what her connection is with the church, but from her contribution it is clear that she has attended the church very regularly over the years; Mr Laurie has lived in the village for 20 years 'and until a few years ago was a regular communicant member of St Peter's' but now worships at other local churches. Amongst the other letters of objection, which include former and current organists, bell-ringers, flower arrangers and those who claim to be, or have been, regular attendees, there is also a letter from a lady who was a member of the Methodist congregation and who expresses serious reservations about the proposed internal re-ordering. Just as with those who are in support, I regard this correspondence as demonstrating that there is a significant body of those who are, or have been, closely connected with this church and who are worshipping Christians and who strongly oppose some or all of the current proposals.

24. It is possible to discern a real feeling of anger amongst some of the opponents at the way in which these plans have been developed and brought forward. Given the commonality of this theme through many of the 70 or so contributions, it does appear that consideration of ways in which this much loved church building can move forward got off very much on the wrong foot and that much that has followed



may be attributable to that. Indeed, Mr Peter Laurie, a principal objector, is of the opinion that if matters had been handled differently the outcome may well have been consensus, rather than division.

25. Allied to this theme is the observation made in a significant number of the contributions to the effect that those opposing used to be regular members of the worshipping community, playing a full part over many years, but who have now felt unable to move forward with the current incumbent and PCC in developing the pattern of liturgy and worship that is at present followed in St. Peter's. It follows that those who feel in this way are neither in tune, nor in sympathy, with the basic thrust of the petitioners case which is in favour of opening up the church so that its structure, fixtures and fittings may more easily accommodate a more flexible and modern style of worship.
26. I have referred to this first 'theme' running through the opponents contributions not only because it is a major feature of the case in opposition, but also because it is relevant to the question of whether or not there is a pastoral necessity or some other compelling reason, for the changes that are now proposed.
27. A second reason for drawing the attention to the strength of feeling described in different ways by many of these correspondents is that it demonstrates an extraordinary level of division and negative feeling within this small community. The letters for and against the scheme come from addresses which indicate that the correspondents are immediate neighbours of each other yet holding strong views on one side or other of the debate. Some on each side of the divide have been involved in this church throughout their lives and have given active service for considerable periods, yet there is stark disagreement between them on these issues. The task of reading all this material was at times highly dispiriting, exhibiting, as it does, a degree of division in this rural community which would seem to go well beyond a debate about the fabric of this nonetheless important building.

28. If they have not already done so I would invite the Archdeacon and the Diocesan Ecumenical Officer to read the totality of the correspondence on both sides. I would also hope that this material can be made available as 'essential reading' for the priest who is next to be in charge of this parish following the planned retirement of the present incumbent in 2012 to assist his or her insight into the pastoral challenges that are apparently present in this rural community.
29. The second theme that runs through the submissions of those opposed to the scheme relates to the detailed proposals. In general, and almost without exception, there is no substantial opposition to the creation of the meeting room and the associated facilities. Whilst some observations are made about the detailed finish of the structure, its creation is effectively welcomed by many, who are nevertheless opposed to other elements of the scheme.
30. Similarly, little space is taken in referring to or opposing the plans for the restructuring of the West gallery.
31. With regard to the re-ordering of the chancel, choir stalls, and screen, a number of the opponents challenge the necessity for any change and support the preservation of the status quo and, indeed, the re-erection of two wooden posts next to the current altar which had, until their removal twelve months ago, had supported side curtains. However, many of those who oppose parts of the scheme, do not mention the chancel, or the proposal of moving the communion table to a more forward position.
32. The main focus of opposition, about which virtually every correspondent is united, is upon the plans relating to the pews, the pulpit, the font and the organ. These core elements of the fabric are seen to be intrinsic parts of a building which, for those correspondents, provides an effective spiritual environment which is connected through history and their own memory with those who have gone before them and with family events, both happy and sad, in their past.

33. These correspondents assert that there is no need to change any of these core features. They challenge the evidence of any substantial tripping hazard and do not share the view, for example, that the aisle is too narrow. They argue that the pulpit is used by visiting preachers, and is an essential part of the church and that the font is in an appropriate position. These correspondents see the organ as a candidate for care and overhaul rather than disposal. They see the presence of a working pipe organ as being an asset to the church and one that should be cherished rather than discarded.

(d) The Legal Context

34. Having, I hope, done justice to the core elements of the detailed submissions both for and against this scheme in the above summary, I now turn to consider the legal context within which the decision must be made.

35. The Faculty jurisdiction must be administered in a manner which gives real and appropriate regard to the importance of the historical significance of the existing fabric. The approach to be taken by a consistory court has been established by The Court of Arches<sup>1</sup> by approving the so called '*Bishopsgate Questions*', by which the court must ask:

- i. 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 the parish or for some other compelling reason?
- ii. Will some or all of the works adversely affect the character of the church as a building of special architectural and historical interest?
- iii. If the answer to (ii) 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?

36. In a later case<sup>2</sup> Chancellor George has suggested that 'necessary' and 'necessity' in the context of the Bishopsgate Questions mean 'something less than essential, but

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<sup>1</sup> *Re St Luke the Evangelist, Maidstone* [1995] Fam 1.

<sup>2</sup> *Re St John the Evangelist, Blackheath* (1998) 5 Ecc LJ 217.

more than merely desirable or convenient; in other words something that is requisite or reasonably necessary'. Mark Hill QC (*Ecclesiastical Law* 3<sup>rd</sup> Edn para 7.72) states that, however the test is put, there is a presumption against change in the case of a listed building and a burden, not easily discharged, lies on those who advocate any alteration.

(e) Assessment and Conclusions

37. It is thus in accordance with the legal context that I have described, and on the basis of the evidence that has been submitted, that I now turn to consider each aspect of the proposals.

(1) The scheme as a whole

38. At certain stages the petitioners have described this as a unified scheme which must either be granted or refused as a whole rather than being divided into individual elements. For example, it is said that if the re-ordering of the internal structures of the church is refused, it would not be worth proceeding with the construction of the meeting room.

39. Having read and re-read the petitioners documentation, it is not apparent to this court that the scheme does stand or fall as one. Whilst plainly, in the eyes of its supporters, each of the proposals is seen in a positive light and complements the general thrust of opening up and modernising the church, that is not the same as saying that each and every element is part of an integrated and inter-dependent whole.

40. I am therefore unpersuaded that it is inappropriate to consider individual elements of the scheme and, indeed, given the disparate nature of what is proposed I consider that it is essential to do so.

(2) 'Necessary for the pastoral wellbeing of the parish'

41. Before descending to the detailed elements of the scheme, it is helpful to consider the overarching case in relation to the pastoral well being of the parish. In interpreting that phrase, I regard 'the parish' as being a body which is wider than

simply those who presently worship at the church and/or sit on the PCC. It must, in my view, plainly include Anglican Christians residing in the locality who may worship there from time to time, or may wish to worship there more regularly in the future. Within this group at present in Bratton Fleming there would seem to be a cohort of individuals who used to be regular worshippers at this church and might once again attend more regularly if circumstances were different. It would be artificial to regard that group of individuals as not being part of 'the parish' when determining whether or not there is a pastoral necessity for these changes. They are, it would seem, in no different position from those who have never yet worshipped at St. Peters, but whom the petitioners would hope to draw in by the attractiveness of the changes they seek to make. All of those to whom I have made general reference in this paragraph are part of 'the parish'.

42. Others who live in the vicinity and who value the church, but never go to it, are one step removed and I have been keen when reading contributions to identify quite how closely involved each correspondent is with this church.
43. As I have already indicated, the evidence that has been filed does not include support from clergy outside the parish in the Diocese of Exeter. There is general and non-specific support from the local Superintendent in the Methodist Church. In this regard, the petitioners do not make out a case which, because of the close connection with the Methodist community, marks Bratton Fleming out from any other similar Anglican parish seeking to modernise the ordering of its church to create a more flexible space which is compatible with the style of worship the congregation wishes to follow. In assessing this petition, therefore, the court has no ground on the evidence before it to regard these proposals in a special or different light from those might be made by any other parish church.
44. Finally, in terms of looking at the scheme as a whole, it is appropriate to express conclusions as to the evidence of 'pastoral necessity' in general terms. Taking the meaning of 'parish' as I have described it above, it is just not possible for a court which has read the submissions on each side of this debate to hold that the

petitioners (upon whom the burden of proof sits) have satisfied the court that the scheme that they propose as a whole is necessary for the pastoral well being of the parish. No other ‘compelling reason’ is put forward.

45. Having read all of the contributions that have been submitted in detail, the weight of the evidence, in my analysis of it, goes further than the somewhat legalistic formulation offered above to the effect that the petitioners have failed to discharge the burden of proof upon them. In my view, the weight of the evidence indicates that whilst a number of interventions or developments may be necessary or desirable for the pastoral well being of this parish, a radical altering of the church building in favour of one half of this divided community is, in fact, the opposite of what is ‘necessary’ in pastoral terms at this time.
46. It follows that the petitioners have failed to establish their case in so far as it is based upon a general principle that supports an overall need for radical change. That is not, however, to say, that each and every element of the proposed scheme must fail. I will now turn to the individual elements.

(3) Meeting room

47. As I have recorded, there is general widespread support from all correspondents for the demolition of the boiler house and the creation of a meeting room, kitchen and toilet facilities. Whilst exception is taken by English Heritage, Mr Brian Williams and some few others as to the detail of the extension, this court is mindful of the fact that some elements of that very detail were in fact conditions of the planning permission. The DAC have no additional requirements in this regard and I do not propose to tinker with the detailed plans for the extension as they now exist.
48. Part or all of the money raised from the sale of the Methodist Church is to be used to fund the building of the meeting room which, in part, is intended to provide facilities which were a feature of the Methodist building before its sale. Unless the money is used for this purpose in the current financial period, it will revert to Methodist central funds and be lost to the Bratton Fleming community.

49. The only heritage body that voices substantial opposition to the principle of the meeting room extension is the SPAB. The Society questions the need for any such facility and draws attention to other resources elsewhere in the village. They question the scale of the extension and advise that the dimensions will overpower the line of the other roofs. English Heritage also questioned the need, but in the event was not opposed in principle to the extension.
50. Given the broad level of either acceptance or support for this proposal, I consider that the Bishopgate questions are answered in favour of granting permission. The need for this additional facility is established on the evidence, the impact on the historic fabric will be limited (and in any event will resolve the progressive dilapidation of the boiler house), and in my view the need for these facilities outweighs any adverse impact on the current fabric.
51. I will, therefore, in due course grant a faculty permitting the construction of the extension and the provision of an entrance to it from the body of the church. This faculty will also permit the laying of pipes and other services across the churchyard in a manner which meets with DAC approval.

(4) West Gallery

52. The site view of the church confirmed the impression given in pictures and described in the detailed study of the interior of the church prepared by 'Keystone' in April 2009 to the effect that the West gallery 'is a curious affair... accessed rather awkwardly through a door in a screen in the tower arch' (Keystone). It was not apparently part of Hayward's original design. The layout of the current structure is, in the court's view, unsatisfactory and the proposed re-ordering will result in the opening up of the West end to let in additional light, but retaining a capacity for seating.
53. The Church Buildings Council regard the proposed scheme as an improvement and have no reservations about the plan.

54. Again, on a similar basis to that set out above in relation to the meeting room, I consider that the Bishopgate questions are answered in favour of permitting this reordering.

55. I will therefore grant a faculty for the re-ordering of the West end gallery in accordance with the proposals that have been made.

(5) Screen, choir stalls and chancel

56. At the time of Hayward's original re-ordering it is anticipated that there will have been a village choir who regularly occupied the space between the screen and the altar. Those days have now long passed and the evidence shows that this space is very rarely occupied at any service other than a large wedding, funeral or other major festival. I accept that for ordinary services, particularly communion, the celebrant standing at the far East end of the chancel is a long way from the body of the congregation with the unoccupied area in between largely being 'dead space'.

57. A number of correspondents who oppose the change speak of this space in positive terms as being a helpful area of peace and calm, a buffer between the nave and the altar, in which they can stand as they move towards the communion rail. I understand and accept that point of view. However, there is in this court's view a stronger argument in favour of the altar moving forward to a position much nearer the congregation so that the priest and the celebration itself can be more connected with the worshippers throughout the service. Having read the evidence in support, and having seen the chancel myself, I consider that a case is well made for the altar to move as is proposed. Such a change in a modern day church is unremarkable and has been undertaken in many similar parish churches. It is not, in fact, a change which has been expressly opposed by many of the correspondents to this court. In short terms, and in reference to the legal context, I am satisfied that there is a pastoral case which makes this necessary for the worshipping community.



58. Once it is accepted that the altar should move forward, the case for retracting the choir stalls and widening the gap in the screen can be seen to be justified. Whilst I have made observations about the scheme as a whole not standing or falling as one, I do regard the proposals that are made with respect to the chancel as being a unified scheme.
59. The removal of the innermost choir stalls and the shortening of the screen will adversely interfere with the historical fabric. In determining whether or not the necessity of moving the altar forward justifies this adverse impact on the historical structure I bear very much in mind what is said in the authoritative report provided by Keystone. They conclude that the importance of the current fittings within the church is that they are part of ‘a very coherent scheme’. Keystone advises that it is a rarity to find an Anglican interior with fittings, more or less single phase, as unaltered as those at Bratton Fleming’. The fittings in this church are not grand, but their importance lies in another respect, Keystone say ‘the surviving fittings are of interest not only because they are so complete, but precisely because they do not represent a very costly, extraordinary, or remarkable scheme. They can be identified as a workman like and thoughtful village church scheme undertaken on what we know to have been a limited budget for the nave seating and flooring. ...Here then, is a valuable contribution to what we understand of what might best be called workaday Victorian church interiors’.
60. The Keystone report is important evidence. Even modest changes may impact upon the integrity of this hitherto largely unchanged Victorian re-ordering.
61. The Church Buildings Council (‘CBC’) did not favour the wholesale removal of the choir stalls and screen but their letter of the 25<sup>th</sup> September 2008 puts forward a compromise position which is in line with that now agreed with the DAC.
62. Having identified the pastoral need that does exist to bring the altar forward, and the consequent integrity of the proposals for the chancel area, and having identified the impact on the historic fabric that that would entail, the court must necessarily

exercise judgment within the context of the Bishopgate questions by deciding whether or not it is proportionate to proceed to meet the pastoral need, notwithstanding the detrimental impact that will follow.

63. Having considered this area of the proposals carefully, and in particular having regard to the sensible compromise that has now been reached through discussion with the DAC, I consider that the need to move the altar forward and connect the celebration with the congregation is more pressing than the need to hold off any interference with the wooden structures in the chancel. What is now proposed retains the evidence of the choir stalls and the screen in their original position, but facilitates the movement of the altar. I therefore propose to grant a faculty permitting the re-ordering of the chancel in the manner that is proposed.

(5) Pews

64. In relation to the removal of the pews, their partial reforming and partial re-introduction onto a stone floor base in the front half of the nave, but their replacement with freestanding chairs at the rear of the nave the position is much less straightforward.
65. Increased flexibility in the location of the pews and, if granted, chair seating are argued for on the basis that they will greatly ease difficulties when there is a freely structured family service with activities for children (known, no doubt appropriately, as ‘messy church’). At present the rigidity of the seating structure, and the narrow aisles, limit the range of activities that can be undertaken. Secondly, when there is a concert or a theatrical presentation the location in which the performers can operate is very restricted and, on occasions, it has been necessary to place boards over the front few pews to establish a platform.
66. It is not proposed that the pews would be moved or located in a different formation from the present during conventional services.
67. It is proposed that the church building will be used for a whole range of events and gatherings during the week, in addition to Sunday services. The aim is for a wider

- range of local residents to become used to going into the church building in the expectation that in time they may feel drawn into the worship of the congregation as well as the secular use of the building.
68. A significant number of those who support the proposals speak of the narrowness of the aisles and the difficulty that this occasions, particularly during weddings and funerals. The new plans will clearly ease these difficulties and will provide more flexible, and less isolating, accommodation for wheelchair users.
69. The pews are raised above the level of the aisle on a wooden plinth which is said to cause a tripping hazard. Under the reordering plans the remodelled pews would sit directly on the stone floor.
70. The Petitioners' case is that the pews are not of any great historical value and are not in good condition. The proposals will retain a significant number of the pews in a refurbished condition and, when in their ordinary position, give the same formation and structure as the present layout. The current width of the aisle at 4 feet is narrow and, whilst it may have been less of a problem in years gone by, is now more frequently a cause of difficulty where the deceased's size requires a coffin of, say, 30 inches width. It is not possible to have more than four people at the chancel steps during a wedding. The fixed layout does not permit flexibility to establish a performance space for concerts or other presentations. The flexible non-pew seating at the West end of the nave will provide a useful and versatile space for all manner of occasions. Doing nothing and leaving the pews to continue to deteriorate is simply not an option; some refurbishment or modification is required whatever decision is made.
71. The removal and/or alteration of the pews is one of the matters of principal concern to the overwhelming majority of opponents. The current setup of pews, covering the whole of the nave, is very much seen as being at the heart of the church's familiar identity. The case for creating a wider aisle is not accepted and in short, it is argued that there is no need for change.

72. The three parties opponent all make the point that the width of the aisle has not prevented the church being used for weddings and funerals during the 150 years since its last reordering. They do not consider that the width of the aisle is any justification for the wholesale removal and remodelling of the pews.
73. There is concern that, despite assurances that have apparently been given that the pews would be returned to their natural position after any event requiring their relocation, this would in fact not take place with the result that the pews would be distributed elsewhere in the building.
74. English Heritage, when initially looking at the internal reordering in general, advises that any decision should be informed by an analysis which addresses the significance of the current structures, the impact of any changes and steps taken to mitigate that impact. That is an approach which is entirely accepted by this court. In its final response dated November 2009, EH accepts that modification of the internal seating arrangements is needed to absorb and adapt to the new congregation and expresses contentment with the line taken by the DAC. They consider that retaining some of the seating, as is proposed, will maintain an appreciable element of the present character and add dignity to the reordering.
75. The Heritage and Conservation Officer of North Devon Council initially voiced grave concern about the degree of removal of historic fittings in the church. However in a final letter dated 17<sup>th</sup> December 2009, after receipt of the revised plans and the Keystone report, there is broad acceptance for the proposals, save for a request for the pulpit to be retained and questioning the need to change the door.
76. The Victorian Society stresses the value of Hayward's work which contributes greatly to the character of the building. The Society would accept a limited reordering, but feels that wholesale removal is unacceptable and that the most significant elements (namely the pulpit, choir stalls and screen) should be retained. The Society is therefore, it would seem, accepting of the plan to remove or adapt the stock of pews.

77. I have already made reference to the Keystone report and retain the advice that it contains prominently in mind when considering the future of these pews, and indeed when considering the pulpit and font. At page 37 (b) the author of the Keystone report expresses the view that if the pastoral needs are seen to justify overriding the need to conserve this body of seating then there is little merit in merely keeping some of the pews as its significance lies in its completeness. This point of view is expressly rejected by EH and by North Devon (and by implication the DAC) who each favour the current proposal of maintaining a significant part of the pew furnishings in a modified form.
78. When considering the pews it is important to bear in mind the fact that if the proposal is granted then for most services, and indeed on most occasions, the 'look' of the front half of the nave will be very similar to its present appearance. It is not proposed that the pews will be sited in a format other than sitting at right angles to the side walls for any act of worship. The facility of having pews that can be moved will come into play when there is a need for the church to be reconfigured for a secular or cultural activity.
79. Having noted that the various heritage bodies either broadly support, or do not vigorously object to, the plans with respect to seating in the nave, it is also right to record that the proposals are not themselves particularly radical when set alongside other schemes for reordering elsewhere in the Diocese for which this court has granted a Faculty in recent times. If a pastoral necessity, or other compelling reason, were established, then it is likely that the impact on the historic fabric would not present an insurmountable barrier to the grant of a Faculty in this case.
80. In the context of the seating, however, I consider that the conclusions to which I have already given general expression require considerable weight. Whilst the court, having seen the site, readily understands what is said about the limits on the use of the space, particularly for concerts and other presentations, this is not such, in this case, as to create a pastoral necessity justifying a change of this degree in the context of the wider pastoral issues described at paragraph 40 onwards.

81. There are other concert and theatrical facilities elsewhere in the village. The plans for the use of the area to the West end, in which there will be stackable seating, are at present very inchoate and are not supported by evidence from the various bodies and groups who would use it, save that it is anticipated that some use of the space will be made by the school. There is no other ‘compelling reason’ for the reordering of the pews.
82. If these plans were being put forward by a parish and were supported by a substantial body of those are to be regarded as part of the parish, then it may well be that the decision in relation to the pews would be different. However, in the context of the case as it is at present presented, the evidence falls well short of establishing a pastoral necessity and, on this point, as I have indicated, there is, if anything, a pastoral necessity not to make a radical change of this degree and nature to the building at this time. The presumption against change flags up the approach that this court should take and, in the legal context that I have described, the conclusion must be that the Petitioners have failed to satisfy the court that this particular element of the scheme is justified and the application with respect to the pews and the platforms on which they sit must fail at this time.
83. I hope that the reasons for this decision are plain. They relate to the need for change, rather than there being any particular defect with the plans if, at a later time, the evidence then established that there was a pastoral necessity for change. It is not beyond contemplation that the changes to the Chancel, West Gallery and Meeting Room will demonstrate how a building can be reordered in a way which is acceptable to many or all and demonstrate how the reordered pews and seats may fit in with those changes once they have taken place. It may be that in time to come the direction of this congregation may move in a manner which engenders a greater feeling of unity amongst those who are part of this parish. Thus the refusal of the current application should not be taken as necessarily a refusal for all time; it is no more, and no less, than a decision based upon the evidence of a lack of a current ‘pastoral necessity’ within this parish at this time.

(6) The Pulpit

84. The Petitioners' case with regard to the pulpit is that, whilst it may well have been part of Hayward's design, it did not remain in the position chosen for it (wherever that was) for long. It was removed to its present location soon after installation. The workmanship fixing it in place was sub-standard and the structure is as a whole now in need for some repair.
85. The principle reason advanced is that its present location blocks the line of sight for those seated along the South wall when looking to the East end and the current position of the altar. The option of re-locating the pulpit elsewhere in the church, even as an out of use 'museum' piece, is not, it is said, viable given the lack of available space. The proposal therefore is for the pulpit to be removed and disposed of.
86. The CBC would not object to the removal of the pulpit, provided that it was replaced by a suitably dignified reading desk. The Victorian Society consider that the pulpit is an important feature and should be retained in the church. The other heritage bodies have not made any express comment on this element.
87. The argument by those objecting is in very similar terms to that described in relation to the pews. This pulpit is seen as one of the key features at the heart of this church and there is trenchant opposition to its removal.
88. When the Petitioners' case is held up to consideration against the Bishopgate questions that consideration must now take place in the context that permission is to be granted for the reordering of the chancel as proposed. The focus of worship will now no longer be at the far East end, but close to the chancel step. This change of focus will significantly improve the line of sight of those who may sit on the South wall and, as a result, the strength of the Petitioner's case, insofar as it is based upon sight-lines, is correspondingly weakened.
89. In short terms, viewed in the context of the reordered chancel and set against my general conclusion as to the failure to establish an overall pastoral need for these

changes, I do not consider that, in the case of the pulpit, the Petitioner's evidence can support an affirmative answer to the first Bishopgate question. As a result the application must fail at that point.

90. The pulpit is very much a feature of the Victorian interior (whether or not it is in its original location). Its retention will do much to maintain the now familiar 'look' of this church. It is still used by visiting preachers and may in time to come once more take on a more regular role. Its continued presence, whilst being greatly valued by those who object, will not, in my view, greatly inconvenience worship or other activities based around the front of the chancel.

91. I accept that the pulpit is in need of some refurbishment and that the original Victorian workmanship would benefit from tidying up as part of the other work that is to be undertaken. Any such refurbishment must, however, be undertaken in a manner approved by the DAC and the Archdeacon of Barnstaple. To that limited extent a Faculty will be granted to permit repair and refurbishment of the pulpit in its present position, subject to those approvals.

(7) The Font

92. The Petitioners' case in relation to the font is basically two-fold. Firstly it is said that the current font is too tall and prevents members of the congregation, particularly (and importantly) children, from seeing what is going on. Allied to the point about height is the claim that the plinth base stands proud of the overall footprint of the upper font and thereby creates a tripping hazard both during a baptism and generally. Secondly, it is said that the location of the font is such that it creates an obstacle which gets in the way and that the font would be better located in the side chapel created by the removal of the organ, where it could be the focus of a dedicated baptismal space.

93. The CBC is not in favour of a move away from the door, but would support an alternative position near to the door. The Victorian Society considers that the plinth of the font has attractive decorative tiles and is an integral part of the design and it should be retained with the font.



94. As with the pulpit and the organ, those who object to the proposals are not in favour of a radical relocation of the font, which is seen as an integral part of the current layout and a link with the past.
95. Canon F1(2) provides that ‘The font shall stand as near to the principal entrance as conveniently may be, except there be a custom to the contrary or the Ordinary otherwise directs; and shall be set in as spacious and well-ordered surroundings as possible’.
96. With regard to Canon F1(2) the Petitioners’ case state that: ‘We have taken advice from clergy within the Diocesan hierarchy and feel we are right with regard to our own building and its constraints, in giving the font ‘as spacious and well ordered surroundings as possible’.
97. The wording of Canon F1(2) is in strict and plain terms. At Bratton Fleming there is obviously no ‘custom’ of the font standing anywhere other than in its present location near to the door. The only other exception that might permit consideration of another location is where the Ordinary (ie the Bishop) otherwise directs. Any discussions that the petitioners may have had with clergy in the Diocesan hierarchy have not been recorded or submitted in support of this Petition. Such discussions would in any event fall far short of a direction from the Bishop.
98. On the above basis, the court can only conclude that the application to move the font from its present location cannot be brought within Canon F1(2) and must, in the absence of a direction from the Bishop, fail on that ground alone.
99. In any event, the case for a radical move of the font from a location near to the door is not in my view made out on the evidence. In this regard any issue as to the height of the font is irrelevant to its location in the church. Whilst I do accept the petitioners’ case that the current location is not ideal as it is in the middle of a main thoroughfare, that does not of itself justify a very radical relocation. The petitioners have failed to demonstrate that sufficient thought has been given to relocating the font in another more convenient location near to the door.

100. On the issue of height, again the court accepts the evidence of the rector and others who have firsthand experience of using the font in practice that its height is not ideal and the lower part of the plinth creates something of a hazard. I also accept that the degree of tiling that now remains is not such that this would, on its own, justify retaining the entire plinth.

101. For the reasons given above, I am therefore clear that the current application to move the font to the North East corner has to be refused, but I would invite the parish to develop an alternative proposal for relocating the font in another position in the vicinity of the door and, once that location is chosen, consider then what needs to be done to reduce the height and width of the plinth in that location.

(8) The Organ

102. The current organ was built by WG Vowles of Bristol in 1882. The report of Michael Farley dated 1<sup>st</sup> May 2008 advises that Vowles built hundreds of instruments in the West Country, Wales and beyond. Examples are given of some still giving good service today and it is said ‘all are excellent examples though the one you have has the brightest and liveliest tone in my opinion’. Mr Farley advises keeping the organ in the church and in its present position ‘as it certainly sounds well and far superior to any modern substitute. Even though it is limited to one manual, the qualities of its tone make up for that’.

103. The central argument of the Petitioners’ in support of the proposal to remove of the organ from the church and replace it with a modern electronic organ is that the current instrument, located as it is in the small chapel-like space at the North-East corner, blocks out a significant amount of light from the large window on the East wall. Secondly, it is said that the instrument takes up a lot of space and this space could be used to form a worship space by creating a small baptistery into which the font should be moved. These two benefits, significant in their own right, also fit into the overall aim of opening up the feel of the interior of this church which is at the heart of the Petitioners’ planning.

104. As a subsidiary argument the Petitioners also claim that there is a difficulty in getting organists to attend all services. As a result, the argument goes, the space taken up by this large organ will not be justified by regular use, whereas a small modern replacement will be available for use whenever a musician can be found, but in the meantime will be unobtrusive in its presence.
105. The CBC noted that nothing is said to be wrong with the current piped organ and the Council considered that the parish had not put forward any case at all for the disposal of such a substantial asset.
106. The removal of the organ is one of the central elements to which almost all of the opponents object. The removal of a fully working pipe organ from a church which is fortunate to have one is seen by many to be an incomprehensible proposal. The subsidiary issue as to the availability of organists has attracted evidence from those who have and would be prepared to play more regularly.
107. Part of the Petitioners' case is that the font needs to be relocated and that this, as part of their unified scheme, is a further justification for the removal of the organ. I have already concluded that the application relating to the font must fail and this additional justification for removing the organ is no longer therefore a relevant consideration.
108. Applying the Bishopgate questions to the removal of the organ, the case, under the first question, comes down to freeing up the space (for some use other than as a baptistery) and letting in light. These are positives in support of the proposal, but it is important in the context of the Bishopgate analysis to consider just how pressing the need for these twin objectives is in the context of the use of the building as a whole. At the end of the day this is a side chapel or side space and not one that is integral to the ordinary liturgical use of the building. Freeing up this space is in no manner a lynch-pin of the reordering proposal, the focus of which is on the main nave and the chancel. It is, even on the Petitioners' case, desirable rather than necessary. Again, I therefore conclude that the first Bishopgate question must be answered in the negative and that the petitioners have failed to establish a need for the removal of

the organ to free up space or let in light. The argument that there is at present no regular organist is, in my view, not relevant to the decision of the court at this time.

109. The above conclusion is expressed on basic principles and without regard to the overall pastoral position described at the earlier stage in this judgment and without regard for the strength of local opposition. Once those factors are taken into account, the case under the first question is further significantly weakened.

110. Even if the petitioners had been able to satisfy the court that there was indeed a pastoral need, or some other pressing need, for the removal of the organ I would have concluded that such need, on the evidence, could not justify removing a working pipe organ of the quality described by Mr Farley.

#### (9) The Door

111. In contrast to the conclusions regarding the pews, font, pulpit and organ, I consider that the alterations proposed to the South Door are modest and are in keeping with the reordering that is to be permitted to the Gallery, Chancel and Meeting Room. Whether or not there is to be glass in the door is not a matter of such moment that terms such as ‘pastoral necessity’ or ‘compelling reason’ can readily be analysed. It is necessary for a judicial view to be taken and for the courts discretion to be exercised having regard to all the circumstances of the case. Having seen the church, I accept the argument that the modest degree of additional light would be welcome in this part of the building. I also accept the argument that the proposed glazing will present a more welcoming aspect to the outside than the current solid door. It will be plain that I have taken full note of the observations of the opponents on each point, but with respect to the door I regard the changes as being both modest and justified and I will grant a Faculty to permit the introduction of glazing.

#### Conclusion

112. It follows that a Faculty will be issued to permit:

- a. Reordering of the West Gallery;
- b. Demolition of the boiler house and building of an extension as planned;
- c. Reordering of the Chancel;

- d. Glazing to the South Door;
  - e. Refurbishment of the pulpit in a manner approved by the DAC and the Archdeacon of Barnstaple.
113. The applications relating to the following features are refused:
- a. Reordering of the pews;
  - b. Relocation and reordering of the font;
  - c. Removal of the pulpit;
  - d. Removal of the organ.

Sir Andrew McFarlane  
Chancellor