



Faculty – Grade I listed, early C 16th, north-east Lancashire town centre church (restored by Paley, Austin & Paley in c. 1889) – Faculty application (1) to regularise works carried out pursuant to an interim faculty for the installation of four infra-red heaters and associated electrical cabling in the outer north aisle, and (2) to make permanent works carried out pursuant to an archdeacon’s licence for temporary minor reordering authorising the removal of four pews, a pew frontal, and two altar rails in the north chapel, and the installation of free-standing shelving and refrigerators for storage for the church’s food bank – DAC recommending both proposals for approval by the court – Objections to the permanent removal of the four pews, pew frontal, and altar rails from the north chapel were received from Historic Buildings and Places and from the Victorian Society but neither body wished to become a party opponent – Faculty granted for all the works subject to a condition that the pews and altar rails are to be retained within the church and not disposed of without a further faculty

Application Ref: 2023-083893

**IN THE CONSISTORY COURT OF
THE DIOCESE OF BLACKBURN**

Ash Wednesday, 5 March 2025

Before:

THE WORSHIPFUL DAVID HODGE KC, CHANCELLOR

In the matter of:

ST BARTHOLOMEW, COLNE

THE PETITION OF:

THE REVEREND ALEX OEHRING (Rector)

MR DAVID HAWTHORNE (Churchwarden)

This is an unopposed faculty petition determined on the papers after a visit to the church.

Objections were received from Historic Buildings and Places and from the Victorian Society but neither body wished to become a party opponent.

The following cases are referred to in the judgment:

Re St Alkmund, Duffield [2013] Fam 158

Re St Laurence, Combe [2022] ECC Oxf 5

JUDGMENT

Introduction and background

1. This is an unopposed online faculty petition, dated 14 November 2024, by the Rector, the Reverend Alex Oehring, and the churchwarden, Mr David Hawthorne, of the Parish Church of St Bartholomew, Colne. They seek a faculty:

(1) To regularise works carried out pursuant to an interim faculty, dated 25 January 2023 (under Ref: 6 of 23 INT), for the installation of four infra-red heaters and associated electrical cabling in the outer north aisle of the church; and

(2) To make permanent works carried out pursuant to an archdeacon's licence for temporary minor reordering, dated 8 February 2022 (under ref: 2022-069512), authorising the removal of four pews, a pew frontal, and two altar rails in the Barrowford (or North) Chapel (dedicated to the Scouts and Guides), and the installation of free-standing shelving and refrigerators for storage for the church's food bank.

These proposals have the full support of the Parochial Church Council (the **PCC**).

2. The temporary minor reordering licence records that St Bartholomew's food bank is a central part of the church's community outreach and mission in Colne. It is viewed as a great way for Christians to demonstrate the love and compassion that Jesus calls us to show to those who are in need. Churches that host a food bank are able to show hospitality to those who use the facility and so are able to break down the barriers that people often construct which make them feel unworthy to enter into a church building. A church food bank can lead to church growth, because people are welcomed, loved, and fed, providing a compelling witness to Christ and his church. Over the past few years the food bank has evolved into a lifeline for many

families and vulnerable people living in the town. However, a significant challenge has been to find a permanent location for it, especially post-lockdown as church life has returned to normal and the use of the church hall has been required for various church groups and regular users. The north chapel was not being used as a chapel and so it was proposed to unscrew the pews from the floor (without causing any damage to the fabric of the church), and store them temporarily elsewhere within the church building, with a view to applying for a permanent faculty should this prove something the church should wish to sustain.

3. The Diocesan Advisory Committee (the **DAC**) required consultation with Historic England, the Church Buildings Council, the Victorian Society, and Historic Buildings and Places (the new working title of the Ancient Monuments Society). Following such consultation, the DAC issued its Notification of Advice (**NoA**) on 14 September 2023.

4. Following the issue of the DAC's NoA, instructions for completing the petition and the public notice were sent to the parish. Between September 2023 and October 2024 the DAC secretary chased the parish several times to complete these documents. An assistant DAC secretary was appointed in early October 2024; and, after sustained chasing, the petitioners at last got around to displaying the usual public notices on 16 December 2024. Notice of the petition was duly displayed between that date and 15 January 2025. Notice under rule 9.9 of the Faculty Jurisdiction Rules 2015 as amended (the **FJR**) was also duly displayed on the diocesan web-site. No objections were received in response to these public notices. Two of the statutory consultees, the Victorian Society and Historic Buildings and Places, have maintained their original objections to the proposals to remove the four pews and the altar rails from the north chapel. In response to special notice under FJR 9.3, however, neither body has chosen to become a party opponent to the petition.

5. Since this faculty petition is unopposed, I am satisfied that it is expedient, in the interests of justice, for me to determine it without a hearing, and on the basis of the material that has been uploaded to the Online Faculty System (the **OFS**) and has been considered by the court. Proceeding in this way helps to further the overriding objective of the FJR of dealing with this case justly, cost-effectively, proportionately, expeditiously, and fairly. In determining this petition, I have taken into account the points made by the Victorian Society and Historic Buildings and Places by way of objection to the proposals affecting the north chapel. I have also visited the church, and attended their service of morning worship, on Sexagesima (the second Sunday before Lent).

The church

6. The town of Colne lies on the A56, to the north-east of Burnley and Nelson and east of Clitheroe. It is the most northern of a string of Lancashire Pennine mill towns, and lies to the south of the West Riding of Yorkshire. The older part mainly comprises one long street on a ridge of land on which stand the town hall and the parish church.

7. The parish church of St Bartholomew, Colne is a Grade I listed church building. It is described in *Pevsner's Buildings of England* at pp 251-3 of the volume for *Lancashire: North*, edited by Clare Hartwell and Nikolaus Pevsner and published in 2009. A floor plan is reproduced at p. 252 of that volume. I include a copy of the floor plan that was uploaded to the OFS at the end of this judgment. The church have also produced a 44-page illustrated church history and guide to the building and its monuments which is now in its 7th edition (published in 2007).

8. There has been a church on the present site since at least the early C 12th. The church was largely rebuilt in the early C 16th in its present day form in the perpendicular Gothic style of the late Middle

Ages. Its surrounding churchyard is closed to further burials. Immediately to the east of the church is the former grammar school, which was built by public subscription in 1812. This is now the parish rooms, where the church's food bank used to be located. This building is presently in a state of disrepair and cannot be used safely. I understand that the parish have submitted an application for planning permission to carry out repairs to the parish rooms and to extend them; and that they are in the process of applying for the necessary faculty. Once the parish rooms have been refurbished, the intention is to relocate the food bank back into them.

9. The church building itself consists of a nave with three side aisles (one to the south and two to the north), two chantry chapels, a chancel, a 62 foot high tower to the west, and a porch to the south with an eccentric sundial, in the form of an elongated cube on a thin stalk, balanced on the gable in place of a finial. A very thorough and sensitive restoration of the church building was carried out under the supervision of the celebrated Lancaster architectural practice of Paley, Austin & Paley in c. 1889 which resulted in the present double north aisle. This had followed on from an earlier restoration, undertaken by Paley senior in 1857, when a new north aisle with organ chamber had been erected. According to the illustrated church guide, as part of this later restoration in c. 1889, the church was re-seated throughout with open oak pews. In 1920, the south chapel was fitted out for use for daily services as a memorial chapel to commemorate those connected with the church who had served, and had fallen, during the Great War of 1914-1918. In 1937, the north chapel was re-organised and dedicated to the Scouts and Guides. According to the church guide, the carved oak communion rails were discovered at this time, hidden behind the panelling, which was disturbed to recreate the north chapel. In that year, too, a children's corner was created. Both chapels are separated from the aisles by fine oak screens. A further re-ordering took place in 2005. This included the removal of all the pews from the outer north aisle to accommodate an area for the service and consumption of refreshments, which now operates as a community café.

10. The church was first listed on 29 January 1988. The listing entry reads:

GV I Church. Mainly early C16. Nave, chancel, lean-to south aisle and double north aisle under M roof, west tower. Tower has moulded plinth, and offset angle buttresses to western corners. Pointed arched west door and 3-light window above, flanked by 4 shields. 3-light pointed transomed belfry windows. Square south east stair turret and oversailing embattled parapet. South aisle has straight-headed windows of 4 arched lights with hoodmoulds, 3-light clerestory windows. The last bay of the nave aisle has a large pointed 3-light window under a gable. East window of 5 lights with rectilinear tracery. North aisle has uncusped tracery to various 3- and 2-light windows, and a pointed 4-light window to gabled organ-loft. South porch is gabled and embattled with large cubical sundial on apex. It protects a doorway with pointed head and quarter-round moulded surround, probably C14, and 3 tombstones now attached to the wall, including that of Richard Horsfall of Malsis d.1644. Semi-circular mounting block attached to porch. Interior: Nave has north arcade of early C13, 4 bays with round columns and semi-circular responds. South arcade on octagonal columns. Double-chamfered chancel arch. Nave roof of 6 bays, alternating moulded tie-beam trusses and arch-braced collars, all with collars braced to ridge, and small cusped wind braces. Chancel roof of 5 bays elaborates this pattern, with the arched braces rising from short hammer-beams. 3-bay chancel arcade on octagonal columns. Two north aisles have arch-braced collar roofs. Concave-sides early C16 octagonal font with symbols of Passion and initials LT (Laurence Townley). Good late C19 pews, chancel and parclose screens, pulpit, the chancel aisle screens being C16. Wall monuments to Christopher and John Emmott, 1746, a scrolled tablet surmounted by a bust and a medallion, and Richard Emmott, 1761, a putto holding a shield.

The Statements of Needs

11. The Statement of Needs supporting the parish's proposal for the installation of infra-red heaters in the outer north aisle dates back to early April 2023. It affirms that the church is growing in mission and outreach as the parish seek to reach out with the good news of Jesus Christ to their local community. That mission and outreach is already bearing fruit, with 30 people confirmed in March 2023 (18 adults and 12 teenagers, without the benefit of any church school). Being witnesses to Christ, inspiring young people, and making disciples is at the heart of what the parish aim to do. However, the parish is in the bottom 5% of the country according to the Church Urban Fund's deprivation statistics, so everything has to be done with a minimal budget. Heating the church building made the winter of 2022-2023 very expensive and, ultimately, the parish struggle to maintain and grow because of a shortage of funds. The parish are seeing people from poorer backgrounds come to faith, but it is hard to see how they can contribute to the parish's costs in any significant way. The parish therefore wished to install infra-red heaters to the pillars to heat the outer north aisle so that people could come in and use the facilities of the community café. This enables the parish to use this area of the church to sustain and develop their mission throughout the year. The parish have received a Vision grant to employ an outreach worker, so they expect their mission to increase. Heating their church building is the key threat to the church's mission and its finances. The parish already have tables and chairs in the outer north aisle, and this warm space, which does not require the whole of church to be heated, means that they can continue to reach out into the local community and expand their mission. Such a warm space is something the parish can afford to sustain, and means that the parish can maintain all of their missional activity.

12. The Statement of Needs supporting the parish's proposal for the permanent removal of the pews from the north chapel in order to house the food bank was also prepared in April 2023. It affirms that the merits of hosting the food bank operation in the church building are significant, both for practical and for missional reasons. The food bank is a central part of the church's outreach and mission in Colne. Over the past few years it has evolved into a lifeline for many families and vulnerable people living in the parish. However, a significant challenge has involved finding a permanent base for the food bank, especially post-lockdown as church life has returned to normal and the use of the church hall has been required for various church groups and regular users. The food bank is a great way for Christians to demonstrate the love and compassion that Jesus calls us to show to those who are in need. Churches that host a food bank are able to demonstrate hospitality to those who use this facility, and are therefore able to break down barriers that people often construct that make them feel unworthy of entering into a church. It can lead to church growth, because people are welcomed, loved, and fed; this is a compelling witness to Christ and the church. The parish already have a café space, which they pay to heat (at considerable expense). This has a fairly low attendance on Mondays. If the parish maintain the food bank in the church building, this café facility is a great space in which to host visitors to the food bank, speaking to and praying with them, and making them feel at ease within the church. It is the church congregation who provide the people-power to operate the food bank so it makes sense to operate this within the church as part of the parish's outreach. This is a practical way for people to serve the mission of the church as they seek to grow as disciples of Jesus, by serving Him and those He loves. It also shows those who are new to the church that it cares about the town, and that its members are living out their faith.

13. The Rector has also identified relevant theological considerations. He cites: (1) **Matthew 25:40:** Jesus said: *'Truly I tell you, whatever you did for one of the least of these brothers and sisters of mine, you did for me.'* There is a consistent theme throughout the gospels that we are called to care for the vulnerable and to

feed the poor and hungry. It is easy for someone to say that they love God, but can we love God's people in the radical way that he calls us to? (2) **Luke 3:11**: John the Baptist, as he prepared the way for Jesus said: 'Anyone who has two shirts should share with the one who has none, and anyone who has food should do the same.' At the heart of our faith is our call to serve and care for those in need. (3) **John 6:35**: Jesus said to them: 'I am the bread of life; he who comes to Me will not hunger, and he who believes in Me will never thirst.' We are called to serve the poor in radical ways, but we have more to offer too; we have the joy of knowing Christ. By hosting the food bank, and loving people in the church building, the church's actions will point to the one who offers us the bread of life. Faith in Jesus can offer real lasting meaning, purpose, and hope to people in all circumstances; but we all need food in our stomachs first.

14. The parish report that the temporary re-ordering has proved a great success. Their 'Community Grocery' has grown in capability and size. The previously unused space in the north chapel has become their 'Grocery' at the heart of their church. It is symbolic that as members of the congregation kneel to take communion, they can look to their left and be reminded of the call to proclaim the good news to the poor. Having the food bank in the church building has meant that the parish can host a more complex mission project, and provide hospitality for their customers. The parish give out free tea, coffee and toast in their communal seating area. This creates a social space as many people stay for this and spend time with friends. The parish have a team of people from the church who spend time with those who are lonely and provide a warm welcome to them. Given that the parish have around 60 community grocery users each week, they are tackling many poverty issues, such as loneliness and lack of food provision, with the offer of prayer. At least one of the food bank's customers has been confirmed, and a number of families have started attending church services, all because of the warm welcome they have received from the church. Hosting the food bank in the church building has broken the barriers for many people who might not have thought that they could enter into a church building. Using the church means that the parish have a CAP debt advice 'drop-in', Citizens' Advice representatives, heating advisors, and cooking demonstrations all in one place. The church's mission has grown and is growing; and it has significantly impacted upon the work of the church. The north chapel is the only place that operates as a good storage space; and, without it, the parish would have to move the food bank to another site. It would have a negative impact upon the church's mission if they had to move the pews back into the north chapel. The pews are presently spread all around the church. They are said to be in the way; and the parish's preference would be to sell them. The altar rails are said to be of little historic value, and to divide the middle of a space that could be put to more use in the long run.

The consultation responses

15. The Church Buildings Council (the **CBC**) have been consulted over the proposed pew removal and the installation of the infra-red heaters. The CBC's initial response was:

This is a simple scheme for which the purpose is well justified. The documents making up the statement of needs clearly demonstrate the benefits of the food bank store being at the church and the need to separately heat the area used as a café. The proposals constitute only what is necessary to achieve the benefits for the community, and the CBC hopes that this advice will help the parish present its case for the facilities to deliver these activities.

The CBC were of the view that the infra-red panels are "small, well located, and do not have undue impact on the appearance of the north aisle. The Council would be content with their retention." The CBC were concerned that the statement of significance did not provide enough detail to assess the impact of the proposed removal of the pews and the altar rails. They considered that more information was needed about the pews and the altar rails, and their contribution to the furnishing scheme of

the church building. Initially the CBC could not support the details of the proposal on the basis of the documentation the parish had provided. The CBC were supportive of the proposals' aims, and expressed the hope that further justification, particularly for the removal of the altar rails and the pews, would place the DAC in a better position to make a recommendation to the Chancellor. Having subsequently been provided with further information regarding the pews and the altar rail (referenced below), the CBC are now content to defer to the DAC.

16. *Historic England* welcomed the positive context in which this scheme had come forward, in an ambition to improve community usage and provide a food bank to those in need. Whilst appreciating this vision, however, Historic England had concerns relating to the level, and quality, of the information provided in support of the application, particularly that relating to the proposed removal of four historic pews and the altar rails. No analysis had been prepared of the significance of the pews and the altar rails, and so their contribution to the significance of the church building was unclear. Without understanding that contribution, no assessment of the impact of the proposals could be made. Other than a minor reference, the altar rails were not mentioned at all. The pews potentially relate to the re-ordering by the eminent church architects Paley and Austen, which would not only increase their value, but also the potential harm that their permanent removal could have. In line with the comments provided by the CBC, Historic England identified the need for further information and analysis in relation to the removal of the pews and the altar rails before determining the application. Historic England noted that there was a desire to sell the pews, but it was not detailed whether any alternative methods of retaining these features had been considered, such as using them elsewhere within the church. The removal of the pews and the altar rails had the potential to cause harm to the significance of the church building. Where harm was proposed, this should be reduced and minimised as far as practicable, with clear and convincing justification then being provided for any remaining harm. Furthermore, any public benefits that could flow from the proposed scheme should be detailed so that the decision-maker might consider whether there was sufficient benefit to outweigh that harm. Historic England recommended that there should be further analysis of the building's significance, the contribution made to that significance by the pews and the altar rails, and an assessment of the impact the proposals would have on that identified significance.

17. *Historic Buildings & Places* are content to defer to the DAC on the use of infra-red heaters. On the proposed alterations to the north chapel, they note that the pews have already been removed temporarily but the communion rails remain in place. The faculty envisages the permanent ejection of the four pews and the altar rails. Historic Buildings and Places hugely applaud the parish for their initiative on the food bank, citing it as powerful evidence of Christian care. However, they question how the beauty and character of this historic Grade 1 listed church, and its sense of the sacred, can be reconciled with what is, in essence, the use of the north chapel as storage for what might be termed the heavy, the perishable, and the untidy. Historic Buildings and Places query whether the north chapel is the best location for this. They question whether there is not a more practical and functional space, associated with the parish, where the food can be stored, away from sunlight, and with appropriate measures for refrigeration and security. They identify this as the vital first question which must be answered persuasively if the petition is to progress.

18. If this particular location is still to be pursued, Historic Buildings and Places would wish to know rather more about the pews and the altar rails. They assume that the pews date from the restorations of either 1857 or 1889-91, both of them by that most renowned north-west

architectural practice which, after various changes of name, ended up as 'Paley, Austin and Paley'. Historic Buildings and Places comment that a lot of their sensitive work at St Bartholomew was inspired by the late perpendicular style of the church as a whole; and the fretwork tracery within the communion rails, and the blind tracery in the pew-ends, suggests their involvement. Even if their history remains uncertain, the pews and the altar rails are fine examples of human craftsmanship; and, because of this, they are irreconcilable with the intended robust storage use of the north chapel. Historic Buildings and Places would not oppose their removal if that use is re-affirmed; but this should be on the express condition that the pews and the altar rails are in no circumstances, to be destroyed. Historic Buildings and Places find it very hard to believe that a safe location elsewhere within the church building cannot be found for the altar rails, and they urge that this is investigated. The four pews, which Historic Buildings and Places consider have similar pew-ends to the many that are being retained in the church, should find a ready market in the architectural salvage and antique market. Finally, Historic Buildings and Places urge that the food bank shelving and heavy lifting should embrace the need to avoid causing any unwitting damage to the two monuments on the north wall, and the ledger stones in the floor, of the north chapel.

19. Like Historic Buildings and Places, the *Victorian Society* raise significant concerns about this proposal, and the inadequacy of the information supporting it. What was proposed might ultimately prove to be unobjectionable, although the seeming quality and interest of the furnishings and the space, and the nature of its proposed use, would suggest otherwise. However, on the basis of the information provided, this is impossible to judge. This is a church of the highest designation, and one possessing exceptional historic and architectural interest. A good deal of that interest rests on the extensive, and high quality, restoration carried out to the church by Paley, Austin & Paley. It would appear that the pews (and possibly the altar rails) that are to be disposed of date from the time of their comprehensive, but sensitive and scholarly, scheme of works. In the first instance, the Society would expect a better illustrated, more detailed, and objective assessment of the provenance and significance of the furnishings in question, and their contribution to the significance of the whole church building, so that the implications of their removal – and the effective repurposing of the chapel space – could be fully understood. Clarification was also required on precisely which items it was proposed to remove. The pews in the north chapel would appear to differ from, for example, the pews in the nave. Were they in fact unique within the church?

20. However, as Historic Buildings and Places also highlight in their own response, the first critical question is whether the north chapel is the best possible location for the food bank, or whether there are alternative locations that could serve just, or nearly, as well without requiring the loss of good quality, historic furnishings. The material filed in support of the application provides no evidence that any alternative locations within the church have been considered. The Victorian Society would have expected some sort of options appraisal to have been undertaken, which had included a plan of the whole church, and actively scrutinised alternative sites for the proposed facility, and the pros of cons of situating the food bank there. Without that preparatory work, the acceptability of the principle of what was proposed was impossible to concede.

21. The parish have responded to these concerns. They point out that the original Austin & Paley pews throughout the church were installed in the C 19th. However, according to the booklet on the church's history, the pews in the north chapel were fitted later (in 1937). There is no record of the altar rails, except that they are probably older, as they were found during the

works conducted to restore the north chapel in 1937. The parish attach photographs which, so they claim, demonstrate that the four pews in question are not in keeping with the older pews designed by Austin & Paley. The parish say that they will probably retain the pews for further developments in their parish rooms. However, the PCC would wish to reserve the right to sell them should they decide that they are surplus to requirements. The altar rails can be put away in storage, or used as décor in the north chapel.

22. The parish emphasise that their beautiful, historic church building is not necessarily equipped to accommodate the mission to which they aspire. The neighbouring parish rooms are in a poor state. The parish have employed a project manager to start the fundraising and address the planning issues required to restore the former Colne Grammar School, but this will take a significant amount of time. Thus, the parish's long-term aspiration for the Community Grocery is to move it to the parish rooms when they have been restored and refurbished. In the meantime, the parish would wish to use the cleared north chapel as a temporary storage area for the Community Grocery. In the longer term, they aspire to use it as an area for meetings, youth work, and Bible Studies. This is a growing church which at least once a month has over 110 people attending their Sunday morning service, with up to 40 children. The cleared space in the north chapel would allow the church to run a Sunday School for those over 10 years old; they presently have a youth group of 20 or more teenagers. The parish need more space, and they believe that using the north chapel for this will cause the least disruption. The pewed north chapel has not been used in recent years; when the current Rector arrived it was only being used for storage.

23. *Historic England* were alerted to the additional information provided by the parish. They acknowledge that this clearly sets out the benefits to the local community resulting from the removal of the pews and the altar rails. But this further material still contains less information concerning their significance. Historic England accept that there appears to be some circumstantial evidence that the pews were introduced when the north chapel was re-ordered in 1937 and dedicated to the Scouts and Guides. However, it remains unclear whether they were older pews, which were re-located from elsewhere within the church, or were re-used, as was clearly the case with the altar rails. Given that the north chapel is not visible from much of the rest of the church, and the evidence that the pews are unlikely to have formed part of the re-ordering of the building by the eminent architectural practice of Paley & Austin, Historic England do not object to their removal. However, they recommend that they should be retained, for re-use elsewhere, and not disposed of. Similarly, whilst Historic England do not object to the removal of the altar rails, these appear to be of some age and should therefore be retained for use elsewhere. As regards the infra-red heaters, these appear to be carefully located to minimise visual intrusion. Historic England have no objection to their permanent retention. In summary, therefore:

Historic England has no objection to the permanent retention of the infra-red heaters, and does not object to the removal of the four pews and the altar rail, though we recommend that all are retained for use elsewhere, and not disposed of.

24. Having received the parish's response to the consultees' concerns, Historic Buildings and Places maintain their former objections.

25. Having consulted on the application, the DAC issued their NoA on 14 September 2023. The DAC advise that these proposals are likely to affect the character of the church as a building of special architectural or historic interest. FJR 9.9 therefore requires notice of the proposals to be published on the diocesan website. The NoA records that objections have been raised by the Victorian Society and Historic Buildings and Places and these have not been withdrawn. Despite this, the DAC recommend the proposals for approval by the consistory court, subject to the proviso that the PCC should retain the pews and altar rails elsewhere within the church, as advised by the consultees. The DAC's reasons for recommending the proposals for approval are as follows:

The Committee noted that the PCC is engaged in vital community social action outreach and the Scout Chapel is required for that work until money is raised to refurbish the parish rooms. The Committee was satisfied that the PCC has responded to consultee comments and taken reasonable steps to identify that the Scout Chapel pews were not part of the Paley and Austin reordering. The PCC has compromised appropriately in its willingness to retain the pews and altar rails elsewhere in the church."

The NoA records that the DAC consider that the petitioners' explanation of how, in formulating their proposals, the parish have had due regard to the CBC's net zero guidance is adequate.

26. Having noted from the NoA that objections had been raised both by the Victorian Society and by Historic Buildings and Places and that these had not been withdrawn, I directed the service of special notice of the petition upon each of those consultees pursuant to FJR 9.3. This was done on Friday 14 February 2025. Both objectors responded with commendable promptitude. On Saturday 15 February Historic Buildings and Places confirmed that they do not wish to become a party opponent in this case. They continue to urge that the displaced woodwork should not be destroyed. They also continue to express the hope that if a faculty were to be granted, a condition might be attached requiring the relocation of the pews and the altar rails, either within this church, or to another church, or a sale into the architectural salvage market. Historic Buildings and Places wish to be sent a copy of the court's decision when it is made. On Monday 17 February, the Victorian Society confirmed that they too do not wish to enter the proceedings as a party opponent. However, they express the hope that the Chancellor will consider the comments they have previously made in response to this application, especially as the issues they had raised in their most recent response had not been addressed by the petitioners.

My visit to the church

27. Given the extant objections received from Historic Buildings and Places and the Victorian Society, and the Grade I listing of this church building, I decided that I should visit the church, without giving any prior notice, and attend one of their regular, 11 o'clock Sunday morning acts of worship. Unfortunately I chose to do so on 23 February 2025, which was the second Sunday before Lent (Sexagesima). This was a day of foul weather: wet, dreich, and extremely windy. That made the warmth displayed by the church family all the more welcoming. I arrived about half an hour before the service was due to begin. The church building was already well-populated, both with congregants and with those looking for advice, assistance, company, and refreshment. The heaters in the outer north aisle were not then displaying the red glow that became apparent after the service. Having introduced myself to those preparing for the forthcoming morning worship, I was able to inspect the whole of the church interior, including

the chancel, the north and south chapels on either side of the chancel, the nave, the south aisle, the two north aisles (with the community café space in the outer north aisle), and the west end. I was shown the present locations of the four pews that had been removed from the north chapel. I viewed the altar rails which are attached only to the floor, and not to the walls, of the north chapel. I also viewed the four infra-red heaters within the outer north aisle that now serves as the community café.

28. From my visual inspection, the four pews that were removed from the north chapel are very different in both quality and design from the pews within the nave and the south and inner north aisles of the church building. The shape, and the design, of the pew-ends of the pews that formerly stood in the north chapel are very different from those other pews. Rather, they resemble the shape, and the design, of the pews that still stand within the south (memorial) chapel that was created in 1920. Although I do not profess to be an expert in this field, I formed the clear impression that the pews formerly standing in the north chapel had been crafted as part of the works carried out to the two chapels in the 1920s and 1930s, and not as part of either of the mid to late C 19th restorations carried out under the supervision of Paley, Austin and Paley.

29. I am satisfied that the two memorials on the north wall of the north chapel have not been adversely affected by the installation or the use of the free-standing shelving and refrigerators used for the storage of items for the church's food bank. The design of, and the inscriptions on, both memorials are still clearly visible to visitors to the north chapel. Neither is amongst the fine memorials mentioned either in the listing description or in *Pevsner*. One of the memorials commemorates John Swinglehirst, who died in 1830, whilst the other commemorates Major J. W. Renny, who died in 1855. Although they are not without some merit, neither memorial is an artefact of any great artistic or historical distinction or originality.

30. I agree with Historic England that the interior of the north chapel is not really visible from much of the rest of the church. During the church's service of morning worship, I sat towards the front of the inner north aisle and the north chapel did not really intrude upon my consciousness.

31. At the conclusion of the morning service, I introduced myself to the Rector. He explained to me the dire state of the neighbouring parish rooms, and the aspirations of the parish to restore them to a proper working state and condition, which might reveal something of their former glory. Despite the dismal weather, I was directed to view their exterior, which I duly did. This building is clearly in need of considerable restoration and refurbishment, whereupon it would have the potential to make a significant contribution to the parish's community outreach and mission.

32. I turn them to the legal framework against which this faculty application falls to be considered and determined. This is not controversial.

The legal framework

33. Since St Bartholomew, Colne is a Grade I listed church building, I must necessarily have regard to what have become known as the *Duffield* guidelines (named after the decision of the Court of Arches in the leading case of *Re St Alkmund, Duffield* [2013] Fam 158), as explained and expanded in later cases. It is sufficient for me to refer to the following summary of the relevant principles which I take from my decision (in the Diocese of Oxford) in the case of *Re St Laurence, Combe* [2022] ECC Oxf 5 (at paragraph 19):

In summary, for the purposes of the present case, which concerns a Grade I listed church building, I must consider:

(1) The degree of harm that these proposals, if implemented, would cause to the significance of the church as a Grade I listed building of special architectural or historic interest; and

(2) Whether the petitioners have demonstrated a clear and convincing justification for their proposals, in terms of any resulting public benefits which would outweigh that harm.

In doing so, I have to bear in mind:

(a) That the burden rests on the petitioners to demonstrate a sufficiently good reason for making any changes to this listed church building;

(b) That the more serious the harm, the greater the level of benefit that will be required before the proposed works can be permitted;

(c) Since this building is listed Grade I, only exceptionally should serious harm be allowed; and

(d) Whether the same, or substantially the same, benefits could be obtained by other works which would cause less harm to the character and special significance of this church building.

Conclusion and reasons

34. For the reasons that follow, I grant a faculty (as asked): (1) regularising the works carried out pursuant to the interim faculty which allowed the installation of four infra-red heaters and associated electrical cabling in the outer north aisle; and (2) making permanent the works carried out pursuant to the archdeacon's licence for temporary minor reordering which authorised the removal of four pews, the pew frontal, and the two altar rails from the north chapel, and the installation of free-standing shelving and refrigerators for storage for the church's food bank. This faculty will be subject to the conditions that: (a) the four pews, the pew frontal, and the altar rails must be retained elsewhere within the church building, save that with the prior consent in writing of the DAC, they may be removed to the parish rooms within the neighbouring former Grammar School when these are in a fit state and condition to receive them, where they are to remain subject to the faculty jurisdiction; and (b) none of these artefacts is to be sold or otherwise disposed of without a further faculty from the consistory court.

35. I will first address the retention of the infra-red heaters and then the permanent removal of the pews, the pew frontal and the altar rails from the north chapel.

(1) The infra-red heaters

36. Historic England consider that the infra-red heaters appear to be carefully located so as to minimise visual intrusion, and they have no objection to their permanent retention. This accords with the view of the CBC that the infra-red heaters are "*small, well located, and do not have undue impact on the appearance of the north aisle*". I agree with these assessments.

37. Normally the court would be reluctant to permit any form of infra-red heating that emits a red light or glow within a grade I listed building, particularly one that dates back to medieval times. However, these heaters have not been installed in the nave, the chancel,

the two chapels, or either of the two principal (and original) aisles of this church building. They have been installed in the outer north aisle, which was added as part of the c. 1889 restoration. The heaters have not been installed within, and are not really visible from, any part of the church that is used for acts of religious worship. They are effectively mounted within an outlying part of the church building, which is used mainly as a community café.

38. Three of the heaters are fitted to the plaster between three of the stone arches on the southern wall of the outer north aisle and face north. The fourth heater is fitted to the plaster on the north wall at the west end of the outer north aisle and faces south, towards the servery and kitchen area. The electrical supply is taken up from the basement underneath the existing kitchen units to a new consumer box fitted to the plaster of the west wall of the outer north aisle above the original wooden panelling within the kitchen and servery area. Electrical feeds with white cabling are then taken from this box to each of the heating units following the line of the existing plaster around the stone arches, thereby avoiding any visual damage to the stone arches. One of the church officials told me how effective these heaters have proved to be in heating the area occupied by the community café. The installation of these heaters is readily reversible.

39. I am satisfied that the installation of these infra-red heaters, in this discrete area of the church, has caused no harm to the appearance, the setting, or the significance of this fine Grade I listed church as a building of outstanding architectural and historic interest. I am satisfied that their continued presence causes no such harm. Rather, this heating installation promotes the functioning of this building as an active, working parish church, enhancing its community outreach and mission. The petitioners have demonstrated a clear and convincing justification for the maintenance of this heating installation, in terms of the resulting community and missional benefits that it brings. There is no suggestion that the same, or similar, benefits could be obtained by any other heating installation that might have any lesser impact upon the character and the outstanding significance of this Grade I listed church building.

(2) The furniture formerly within the north chapel

40. I am entirely satisfied that the removal of the four pews and the pew frontal from the north chapel, and the proposed removal of the two altar rails, which are not attached to the chapel walls, has caused, and will cause, very little, and (at most) no more than moderate, harm to the appearance, the setting, or the significance of this fine Grade I listed church as a building of outstanding architectural and historic interest. These four pews are very different in both quality and design from the pews within the nave and the south and inner north aisles of this church building. The shape, and the design, of the pew-ends of these pews are very different from those other pews. Rather, they resemble the shape, and the design, of the pews within the south (memorial) chapel that were created in 1920. All the evidence suggest that these pews were crafted as part of the works carried out to the south and north chapels in the 1920s and 1930s respectively, and not as part of either of the mid to late C 19th restorations carried out under the supervision of the distinguished, and celebrated, architectural practice of Messrs Paley, Austin and Paley. Based upon my personal observations, I agree with Historic England that the interior of the north chapel is not visible from much of the rest of the church.

41. All of the consultees are rightly united in their praise for the community outreach, and the missional and physical benefits, of the church's community food bank. Pending the restoration and refurbishment of the parish rooms, I am satisfied that this is the only sensible, and practical, location for this invaluable, and commendable, community resource. Having visited and viewed the interior of this outstanding church building and its environs, I am left in no doubt that the petitioners have demonstrated a clear and convincing justification for the removal of these artefacts from the north chapel in terms of the resulting community and missional benefits which the existence of the church's food bank brings to the poor and needy people of Colne. These benefits far outweigh any limited harm caused to the setting, the appearance, or the architectural and historical significance of this outstanding church building. I am left in no doubt that the same, or substantially similar, benefits could not be obtained by any other works which might cause any less harm to the character and outstanding significance of this fine church building.

42. However, in common with the consultees, and the recommendation of the DAC, I have no doubt that the four pews, their pew frontal, and the two altar rails should all be retained within the church building, and not sold or otherwise disposed of without a further faculty. From my observations during my visit to the church, I can identify no particular difficulties that might attend the continued storage of these items. Even if not forming part of either of the C 19th works of restoration, the four pews and their pew frontal would appear to date from the 1920s or 1930s, and to match the wooden furniture in the war memorial chapel to the south of the chancel. As styles of, and fashions for, worship change with time, there may, at some future date, be an appetite to return the north chapel to a place of worship or of prayer and quiet reflection. In that event, it would be appropriate for the pews, and their frontal, to be restored to their former place in the north chapel. The church's guide booklet suggests that the altar rails may be of some age so they should also be retained for potential re-use, either in the north chapel or elsewhere. I would, however, be content, with the prior consent in writing of the DAC, for these items of church furniture to be removed to the parish rooms within the neighbouring former Grammar School when these have been restored to a fit state and condition to receive them. There these artefacts are to remain subject to the faculty jurisdiction.

43. So, for these reasons, I grant this petition as asked subject to the conditions that:

(1) The four pews, the pew frontal, and the altar rails must be retained elsewhere within the church building, save that, with the prior consent in writing of the DAC, they may be removed to the parish rooms within the neighbouring former Grammar School when these are in a fit state and condition to receive them. There they are to remain subject to the faculty jurisdiction; and

(2) None of these artefacts is to be sold or otherwise disposed of without a further faculty from the consistory court.

I order that a faculty to this effect shall pass the seal. I note that these works have already been carried out.

44. In the usual way I charge no fee for this written judgment; but the petitioners must pay the costs of this petition, including any fees incurred by the Registry in dealing with this faculty application.

David R. Hodge

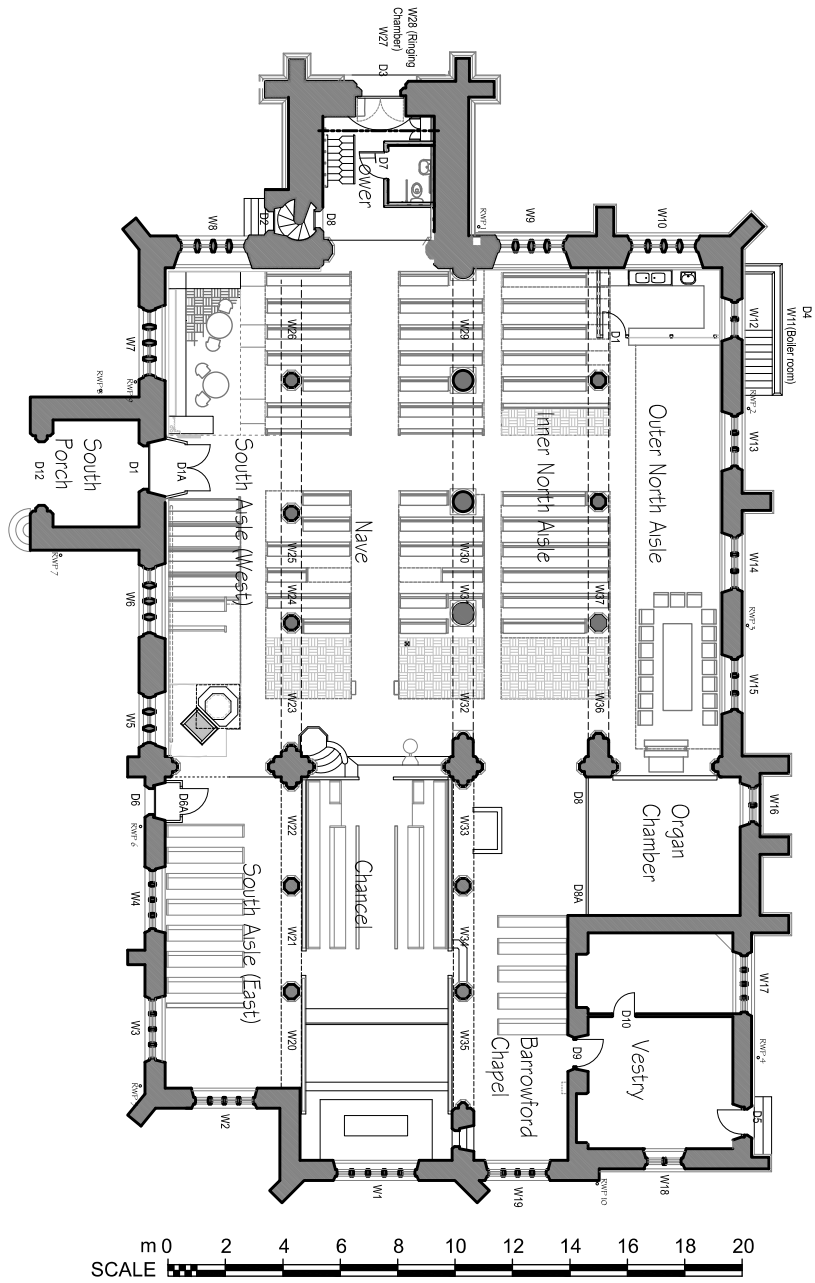
The Worshipful Chancellor Hodge KC

Ash Wednesday

5 March 2025

St Bartholomew, Colne





St. Bartholomew's Parish Church, Colne
 Floor Plan 1:200