

Neutral Citation Number: [2024] ECC Nor 3

IN THE CONSISTORY COURT

DIOCESE OF NORWICH

**In the matter of
EAST DEREHAM, ST NICHOLAS**

-and-

**In the matter of
A PETITION OF THE REVEREND CANON PAUL CUBITT (TEAM RECTOR) SHEILA
HANMER (CHURCHWARDEN) AND MARION MORGAN (CHURCHWARDEN)**

-and-

**In the matter of
REORDERING WORKS IN THE COWPER CHAPEL AND ITS ENVIRONS**

Judgment of the Chancellor

March 5, 2024

Etherington Ch:

This faculty application, which has undergone revision during its progress, concerns the first phase of reordering and renovation works in respect of this Grade I listed church. I have, after considering the evidence, conducting a view and taking into account the different submissions of the consultees, decided to grant it in the terms it has been requested. A late complication has arisen unfortunately concerning a Tudor painted roof/ceiling, which, although it will not affect the grant of the faculty may impact on the precise timing of the commencement of works which is dealt with in the Conditions,

1. This petition seeks permission for certain reordering works in this fascinating grade I listed Norfolk church. As well as the written materials I have seen, I have also had the advantage of visiting the church on February 8, 2024 where I met the team Rector (the Rev'd Canon Paul Cubitt) the architect (Nicholas Jackson) Andrew Barnes (the Chair of the Diocesan Advisory Committee – "DAC") and Nicholas Cannon (the Secretary of the DAC. I was accompanied by Stuart Jones, the Registrar of the diocese. I am grateful to them all for arranging the viewing and their assistance during it.
2. The petition seeks (i) to install lavatories in the north transept in an area near to the organ, (ii) to enclose the chapel space in the eastern bay of the north transept to create a sound-proof room which can be heated independently and install a small kitchen to serve this space, (iii) to remove the temporary kitchen at the eastern end of the south aisle and create a new reredos, (iv) to relocate an unused altar table (at present sitting on the grave of William Cowper) in front of the new reredos as a suitable focal point and (v) to create storage behind the reredos to keep the staging displaced by the proposed lavatories.

Significance

3. The majority of the church building (which has Saxon origins) is 13th to 15th century. The church has a spectacular font dating (c.1468) I examined this during my visit including the imagery of the seven sacraments. It is a wonderful artefact although its height and shape must make some baptisms daunting. There is a striking bell tower which is a 16th century creation. There is a mediaeval screen in the chapel entrance at the south transept although it was not originally in this church but transferred from another about 70 years ago. Reordering in the 19th century included one area which features strongly in these proposals: a chapel containing the grave of William Cowper situated in the north transept. There is also an associated memorial window.
4. I have read the extensive and detailed listing information for this building, but given the nature of the works proposed, I do not consider it will enhance my judgment by rehearsing it.

Consultation

5. There was formal consultation with the Church Buildings Council (“CBC”), Historic England (“HE”) and the Society for the Protection of Ancient Buildings (“SPAB”). The Victorian Society (“VS”) was content to defer to SPAB and HE. All of the consultees had concerns about these proposals. The DAC, in recommending the works to me had concluded that it was likely to affect the character of the church as a building of special architectural and historical significance (henceforth “AHS”). There were exchanges between the Petitioners and consultees and some modification of the original proposals. I do not consider there is any benefit in reviewing this chronologically as all (with the VS deferring as stated) the consultees were sympathetic to the need – a busy town church with a congregation of around 70, numerous other visitors and a lively church community with many events which needs additional space and more satisfactory facilities, including new lavatories.
6. I directed on November 6, 2023 that the consultees should be asked if they wished to become Parties Opponent and none did but all wished me to take their views into account in reaching my decision. I directed that the Petitioners drew up what was in effect a *Scott Schedule* of the remaining disputes to establish factually what they now were and to submit them to the consultees for their comments, if any.
7. One of the important areas of concern is the proposal to level the floor in the Cowper chapel. The aim is to create a pastorally needed area of space which can be enclosed suitably, with an associated small kitchenette and lavatories. The sloped floor impedes the proper functioning of the doors. Balancing that need against the AHS of both the floor, its slope and the fate of the ledger stones in it is a key concern. I spent a good deal of time in the Cowper chapel and, at present, despite its AHS, to which I will turn shortly, it appears as a rather ‘dead’ space. Its positioning is such that it is difficult to see how it could be used, in its present configuration, and it runs the danger of simply becoming an area through which people mostly pass. The question of the slope itself as a feature of significance needs addressing on the evidence that can realistically be assembled. This sizeable church has a number of quirky features including a high gallery only for the very brave (who include the Team Rector) with a *Narnian* style door to the sky which is apparently the most enquired-after feature by children visiting the church. The stunning (if challenging) font draws the eye at the west end. I mention this character of the church as it is relevant when considering whether any changes would be what is described by at least one consultee as being ‘out of step’.

The Cowper Chapel – Levelling the Floor

8. HE says in its latest response said: *We previously advised on proposals to re-lay and level the floor, with relocation of three ledger stones. We expressed concerns due to a lack of understanding of the floor's significance and potential archaeological impacts. The current proposals seek to relay the Cowper Chapel floor level, reproducing the existing layout of grey marble stones and black marble ledger slabs. We welcome the retention of the ledger slabs and the additional information presented on the significance of the floor in this area. As indicated in our previous advice there are elements that suggest the floor was level in the 19th century - this includes an engraving of the chapel which align with a scar on the chapel steps. We however remain puzzled by the age of the floor and why it was changed. It is therefore difficult to assess the impact of these proposals. We understand that levelling the floor would make an even floor for the proposed meeting room but we re-iterate previous concerns that this would put the chapel literally out of step with the rest of the church west of the chancel... It is not clear that the proposed levelling, and introduction of more stairs and ramps, is desirable or necessary.*
9. The CBC commented in its latest response: *It seems very unlikely that the floor would have intentionally been laid on a slope. Is it possible that there has been some subsidence or other cause for the floor being sloped? The proposed re-laying of the floor is highly intrusive and does not appear to provide a benefit which outweighs the harm of lifting and re-laying it. If this intrusive work can be justified, then the Council accepts the proposed methodology and supports the use of a suitably qualified professional to carry this out.*
10. SPAB in its penultimate response observed: *While additional information has been provided in relation to the floor of the Cowper Chapel, in our view, this stops short of establishing the significance/age of the floor or providing conclusive evidence of how it has evolved over time. The theory advanced is that the floor was level in the Georgian period and was then subsequently taken up and relayed on a slope. An engraving is reproduced which shows a level floor, but we would caution that historic engravings not infrequently presented an idealised view of important buildings, omitting any quirks or defects which were not to the liking of the artist. It seems extremely unlikely that the floor would have been relayed subsequently on a slope and the statement does not provide evidence or a rationale for this assertion. It is also of concern that no methodology or specification has been provided for the proposed works and that there are no drawings to show build up, etc. We would expect to see a detailed report from a suitably qualified and experienced stone conservator as part of any proposal of this type. A further concern is that the archaeological implications of lifting and relaying the floor have not been addressed. We see that retaining the existing floor configuration would result in only a 2.5cm gap under a single door in the new screen. As such, we consider that the harm to the significance of the floor has not been justified in terms of need and we are not able to support the proposed floor works as they currently stand.*
11. In the schedule of disputes the Petitioners respond by saying: *the evidence is strong that the floor to this chapel area was at the proposed floor level (without slope) in the late Georgian period based on engravings from the nineteenth century and physical scars on the Cowper memorial steps (1800). It is submitted that the general slope of the floor is not due to subsidence but was laid as such, although it is less clear whether the later mediaeval chapels were laid to the same slope. The Petitioners go on to say: it is likely that the floor of the Cowper chapel was relaid to a slope as part of a fashion for re-mediaevalisation, popular in the mid-19th century. They also believe that the ledger stones, mostly Georgian, were relaid and re-positioned at this time because a contemporary drawing by William Cooper shows black ledger slabs positioned along the central aisle of the nave which are not there now but instead the same sort of ledger slabs have been relocated to the Cowper chapel and eastern crossing.*

12. The architect's calculation of the gap that retaining the existing floor would create is 25 mm decreasing to 0 mm in respect of the width of a single door up the slope. The Petitioners want a double door on the east side requiring a space of 50 mm decreasing to 0 mm. If this is not achieved, then one door of the doors would be longer than the other. The gap would need be 75 mm decreasing to 25 mm. The Petitioners further say that a door positioned along the slope but with its opening positioned up the slope would need at least a 25 mm clearance under the full width of the door to allow it to swing open to its full extent.
13. The final point made by the Petitioners is that *the levelling of the floor provides a step - free route to the WCs' area where the concept is to raise the "pods" off the floor. Raising the pods was intended to take advantage of the existing slope of the floor so that drainage could be incorporated above the historic stone floor of the transept and a (non-breathable) washable floor to the WC pods used while maintaining a ventilated void below.* The Petitioners conclude that if this floor is not levelled then *there would need to be further disruption to the stone floor of the North Transept instead.*
14. HE and the CBC had no further observations, but SPAB further described the Petitioners' arguments in respect of the history of the floor as *a narrative constructed...on a highly subjective interpretation of the evidence currently available* and says it is not a report from an architectural historian with the requisite experience and not authoritative. SPAB says further that the problem of the necessary space to accommodate the underneath of the doors could be addressed through a a more carefully considered design *without resorting to the wholesale levelling of the floor.*

The Cowper Chapel – the Radiant Panels

15. The Petitioners propose to use radiant panel heaters. I could see (and feel) on my visit that this is not an easy area to heat.
16. The CBC did not object to the radiant panels being used for interpretation. They, did, however want to know whether the interpretative material would be legible at floor height, whether the images could be changed and what their likely life would be.
17. SPAB argued that employing radiant panels as illuminated interpretation boards would not be appropriate in the context of the historic chapel and that the panels should be coloured to match the walls with high quality interpretation materials produced separately.
18. The Petitioners have explained that the panels are not illuminated but are flat ceramic panels which have the ability to be printed with graphics that are to be positioned close to the floor where they will concentrate heat at human height and be readable. If they become worn, the graphics can be repainted. The idea is to provide Cowper's words, hymns and prayers. The Petitioners say that the heaters are energy efficient, being used to heat only when the room is in use.
19. The CBC made no further comments. SPAB said that large interpretation boards are not an appropriate introduction into *this significant and sacred space.* They say that this church is *not a National Trust property and information, while important, can be supplied equally effectively by other much more discrete and respectful means such as pamphlets and recorded commentary.*

The Cowper Chapel Roof

20. The Petitioners' wish to ensure that the existing conditions for the roof are preserved by allowing a significant area of ventilation at high level in the taller arch to avoid

increased levels of intense temperature changes or humid air and to minimise convection currents and avoid the risk of rapid heating or cooling of the ceiling. Clearly, as the Petitioners recognise, the question is whether the present works will affect the condition of the ceiling adversely. HE in particular is concerned about the potential for harm to the painted ceiling.

21. The preliminary conservation report (*Hirst Conservation* January 31, 2024) took some time to be completed. It is clear that the roof is going to need urgent review irrespective of these works.
22. The lighting proposals for the roof are considered a suitable lighting method, but the conservators point out that it will have the effect of showing up existing deterioration. This may, of course, be a good thing to concentrate attention on it. The impact of the radiant heating proposed for the chapel should only affect the *relative* humidity of the air in the newly enclosed space. It would only reflect the *absolute* humidity of the space if the fabric of the room is damp *and* ventilation within the space poor.
23. The report suggests a number of advantages of the radiant system proposed but points to one disadvantage: rapid heat diminution. As anyone will recognise who has experience of radiant heating, it heats a space fast and the heat diminishes once it is reduced just as rapidly. The report points out that the radiant heaters heat the air less rapidly and to a lesser extent than convector heaters. An amount of hot air, however, will still be generated. The conservators support the use of “passive ventilation” in the form of a gap left at the apex of the arch/screen. This would allow an amount of the hot air to dissipate into the main body of the church. The report also supported the use of a destratification fan to avoid the pooling of hot air.
24. An important and firm suggestion is made that climactic conditions within the chapel are monitored with data loggers installed prior to the commencement of works to the chapel and which remain in place for a minimum of 18 months after the works have been completed. There are a number of other suggestions about the number of loggers needed and the fact an external logger is seen to be essential to observe the effect of climactic conditions.

The Cowper Railings' Gate

25. The railings in front of the Cowper grave are original but allow no method of entry except climbing over them. The proposal is to make a small gate in them at the eastern end to access the area behind them. The CBC objected that it was not justified. The Petitioners showed me the area concerned and demonstrated the difficulties of safe access to it.

Destratification Fans

26. The CBC felt that destratification fans are not very effective and depending on where they are mounted might cause harm to the ceiling. It is also suggested that long-wave radiant panels will use little convection heat.
27. The Petitioners (in submissions prior to the *Hirst* report) point out that 30% of heat from radiant panels is convection heat. The destratification fan they propose is not the ‘helicopter’ type fixed below a ceiling but will be mounted at wall level and is an enclosed fan. The Petitioners said they kept an open mind on these fans. The recent report, however, supported such use as one measure to help protect the ceiling.

Ledger Stones in the North Transept under the WC Area

28. There are two late mediaeval ledger stones about which some concern was expressed by the CBC. This area and these stones will be covered. I have looked at these on my visit. One has an empty recess for a brass in the outline of a knight. The other has an

empty recess for a shield and inscription. The Petitioners believe that they were repositioned in the 19th century. There are no remaining inscriptions and the Petitioners contend that they are neither exceptional nor have any particular academic interest. The Petitioners say that they will be (a) protected from damage and (b) carefully recorded. The requested detail of water and drainage routes have been provided in a revised submission.

Carpet and Underlay

29. There is a proposal to carpet and underlay to protect the floor and ledger slabs and make the space more homely. It is proposed also to use breathable carpet and underlay. SPAB had particular concerns about that aspect. Non-breathable underlay is capable of causing damp below. SPAB also comments about the need to take care that carpets and underlay advertised as breathable do not contain materials which are not.

The Lavatories' Rooflighting

30. Some questions were asked about the design of the lighting in the WC area but these have been resolved particularly with the abandonment of what was described as the pyramidal lantern WC roof lighting.

Cutting Back the Base of the Pier

31. As well as a number of proposals that have been revised during the consultation period, there are a number of other proposals (e.g. for heating) which will form later phases of reordering and which will require faculties in due course. One proposal which was revised and most probably postponed was concerned with how to provide access for those with mobility assistance needs when the Cowper Chapel was in use and without requiring a route that did not involve crossing behind the nave/chancel.
32. I walked that route and was shown the various options for reductions. I can see the difficulty because of a mediaeval column and the organ platform.
33. All of the proposals attracted criticism with a strong objection from the CBC to removal of a section of a mediaeval column.
34. The proposal itself was put forward tentatively and the DAC had been supportive of cutting the base of the column back. In light of the consultees' reaction, the Petitioners have left only a reduction of the organ platform in the present proposals and, given that there will be no corresponding reduction in the stone pier, it will likely not be pursued.

Location of Wall Memorials

35. There are some historic memorials on the walls and one on the window-sill behind where the WCs will be located causing some obstruction to viewing them. They include memorials to a previous incumbent. They would be of interest to local historians possibly. The consultees have had varying responses to the issue of whether these should be relocated and how important a matter it is.
36. HE thought that the proposals would lead to an unsatisfactory setting for the memorials close to the lavatories and had concerns about enclosing memorials within the actual lavatories (which is not the proposal as I understand it) and came to the conclusion that it may be preferable to relocate them.
37. The CBC first thought (March 23, 2023) that if it could be shown that the site chosen for the WC area was the best one then it would support re-siting of the monuments which it considered may anyway have already happened at a previous time. On

September 29, 2023 the CBC's view was that if the monuments are in their original location then it would be preferable to leave them there, but better interpretation should be provided.

38. SPAB was disappointed that the memorials were not going to be re-located and, in a submission following the Petitioners' response said that such relocations are common during reorderings and that it would be "surprised" if an alternative location could not be found in a church of this size. The fact that they were partly obscured by the present furniture was not a reason for doing so again when reordering and indeed provided an ideal opportunity to enhance the significance of the church by relocation.
39. Concern was expressed also that the arrangements for seeing the memorials which may require standing on steps or the organ platform would prevent those with mobility restrictions from seeing them in full.
40. The Petitioners contend that there is no evidence to suggest that these memorials have ever been anywhere else other than their present location. They are grouped with members of the same families. They do not accept that there are more suitable locations that could achieve the same grouping of these associated memorials and say that there is not a suitable relocation point for five memorials in the north transept. No memorial is enclosed within a lavatory cubicle and only one relatively plain one in the lobby. The Petitioners believe their removal would harm the significance of the church, not enhance it and prevent the 'glimpse' view of them that is afforded from a number of points when walking round the church – an exercise which I performed myself. There is already a photographic record of them, say the Petitioners, which is in use in the church and the PCC is seeking quotations for the cleaning and conservation of them.
41. It was in fact these memorials which prompted my viewing of the church as I found it difficult to visualise the issues on paper even with the assistance of photographs. Having seen them *in situ* I am much clearer now about the respective contentions.

The Law

42. The particular considerations of *In Re St Alkmund, Duffield* [2013] Fam 158 apply. I am also mindful of subsequent decisions which are to the effect that if the need can be demonstrated to justify serious harm to Grade I or II* listed buildings then a final test should be posed as to whether alternative solutions could be found that would cause less harm but still substantially answer the need. Some of the proposals here would, if implemented, result in harm to the significance of the church as a building of AHS.
43. I am therefore required to ask how serious the harm will likely be and how clear and convincing the justification for the proposals is and in particular remind myself of the degree of justification that would be needed if serious harm were to be caused to any church and, in particular, those enjoying a high listed status.

Decision

44. The question of need is not the significant question and (with the exception of the Cowper railings' gate) the consultees do not suggest that the needs of this busy and thriving church do not require the kind of works that they are suggesting. I have read the Statements of Need and am conscious that the PCC has engaged in considerable consultation with the users of the church (amongst whom the need for proper lavatory space is paramount) and that the present small kitchen arrangements are unsatisfactory and in danger of not being compliant with regulation. The space that the rather dead area of the Cowper chapel would provide if it had the ability to be enclosed when in use is badly needed by the church. It needs proper heating too and warmth that does not further imperil the painted roof which is in need of attention in any event.

45. The problem here is one of specifics: do the Petitioners need to do certain things in the way that they wish and could and should they be done differently? The architect here has prepared very detailed plans and illustrations and the faculty papers are marked for their thoroughness, degree of explanation and consideration of alternatives. As a result of this a good deal has been achieved in discussions between the Petitioners and the consultees.
46. I am, therefore, able to look at the remaining areas of disagreement which sometimes includes differing views between the consultees in order to reach my decision. These questions may not only affect my decision as to whether or not to grant the faculty at all and, if so, in full or in part but also whether or not to impose Conditions.
47. I can deal with some items speedily. The following will cause either no damage to the AHS or be of such limited effect as to be *de minimis*: the destratification fans, which are not opposed in the conservator's report, the carpet and underlay providing both are composed of breathable materials, the lighting in the WC area in the revised proposal, and the reduction to the organ platform (other proposals in that area to aid those with mobility issues being dropped) if it is undertaken. I can also deal quickly with a proposal not mentioned previously, a clarification to which is within the schedule of submissions: the 'new' altar table going to St George's chapel. The Petitioners have explained that it is not new in the sense of just made, but is one being moved to a new location. It is, in fact, an existing hardwood timber altar that has been used in a number of locations and stored in the Cowper Sanctuary in recent years.
48. The Cowper chapel railings' gate I can deal with easily too. There is a need to access this rear area and the original railings did not provide for this. The gate within the railings is a minor alteration of no AHS and is justified. I witnessed someone demonstrating to me how one accesses the area now and it is not satisfactory. This will have no effect on the general AHS of the church.
49. The radiant panels and the painted roof have to be taken together. There is clearly a need for the area to be capable of being heated. The CBC and SPAB take opposing views about whether the radiant panels being chosen should contain printed material on them. The CBC had questions about their visibility but no objection to the idea in principle. SPAB saw such writing as inappropriate use of these panels which it wished to see painted white with no printing. SPAB additionally believes that interpretative material should be presented in a different form such as pamphlets or recorded commentary and reminds the Petitioners, unnecessarily in my judgment, that the church is not a National Trust property. There is something of a misunderstanding. The Petitioners are not seeking to print interpretative material, which I agree is better provided in the customary way. They are providing some quotations from Cowper's work. I see nothing inappropriate in that or disrespectful to the sacred setting. I concur with the CBC and disagree with SPAB about this issue and see nothing damaging to the AHS of the space or the church as a whole.
50. Having considered the conservation report in respect of the Tudor painted roof ceiling it is clear that is not being said that either these heating or lighting proposals in the enclosed setting of the modern oak panelled and steel framed glass panels are likely to increase the damage to the area and, in contrast to convector heaters, this type of radiant heating will be less likely to be damaging particularly given the steps that the Petitioners propose to allow for air flow and accordingly does not alter my judgment that the heating proposals do not damage the AHS of the building. It does raise another matter, however. The report also says that a detailed condition survey of the ceiling is undertaken prior to the proposals commencing, more because the stability of the ceiling may pose hazards in itself rather than because of the effect of the proposals on them. That is not of itself relevant to whether I grant this faculty but it is relevant to timing. I propose to make Conditions in respect of the problem.
51. What is relevant to this petition are the recommendations for the installation of three data loggers installed prior to the commencement of works (in place for at least 18

months) and 1 fixed to the exterior of the building. I propose to make a Condition covering that recommendation.

52. I am satisfied that the covering of the two ledger stones with underlay and carpet is justified in this case. Steps have been taken to see that they are protected and their appearance will be properly recorded. Given their condition and the lack of any identifying features I am satisfied that whilst this will cause damage to the AHS, the damage is very low and can be justified by the proposals as a whole.
53. This brings me to the two matters of more substantial disagreement: the first relates to the location of the wall memorials and the second to the removing of the slope from the Cowper room floor.
54. The view of the wall memorials will be obstructed to a degree by the new WC area. They are obstructed by the present structure there too. I agree with SPAB that this does not justify continuing the obstruction in the new area planned simply because one exists at the moment. It did give me the opportunity to see the memorials in an obstructed setting. It was comparatively easy if you are able-bodied to stand on a couple of steps provided or the organ platform to see them properly. The question then arises as to whether, in this situation, the memorials should be relocated. The consultees are not entirely *ad idem* on this as I have already made clear in reviewing the evidence. The CBC thought there was a case for keeping them where they are if they are in their original location. SPAB favoured their relocation.
55. It is not, of course, unusual for items to be relocated during reordering of churches, particularly during major works. Sometimes these movements are contentious, sometimes not. One factor is the significance of the items in their own right, another is their significance in the place where they are presently located, a third is the period of time they have been in their present location and in the case of the removal of a number of memorials, whether they are linked in any way. This leads into where it is proposed the memorials will be relocated.
56. There is unlikely to be a definitive answer as to whether these memorials have always been located where they are presently but, on the balance of probabilities, I judge that they have. First, there are a number of family connections between them as was explained to me. There is also an associated floor panel pointed out to me by the architect and there is indeed a certain symmetry to their appearance particularly with the memorials on either side of the window-sill memorial.
57. The present obstruction to a complete view of them at ground level by the existing structure will be replicated by the new WC area. A little effort can enable those who have no movement problems to have a complete view. It is true that those with less good movement or who are wheelchair users will not be able to see more than part of the memorials. This can be overcome in part by ensuring that there is a good photographic record of the memorials.
58. The memorials in question are significant because of their age and of local historical interest to an extent and would benefit from the intended conservation. The memorials are associated.
59. Moving them would remove the obstructed view but I understand the concern of the Petitioners that to move them from this location would mean that the group would be broken up. The sills in the main area of the church would not be best suited to the sill memorial. Part of any decision as to the location has a subjective element, but my judgment is that the likelihood of the present location being the original one and the fact that the memorials will likely become separated in the main church when they should be kept together if possible outweighs the inconvenience of the viewing angle and some loss of amenity for those who cannot use the steps or organ platform (which can be mitigated by a proper photographic record of the memorials). There is damage to the AHS in either scenario which I would categorise as low (viewing obstruction) and low to moderate (the separation of the group). I have concluded that the balance lies in keeping the memorials where they are.

60. Finally, then, there is the most contentious issue which is the levelling of the sloping floor that the Petitioners wish to undertake. I looked carefully at the sloping and where it occurs. The extent and gradient of the slope in the church varies to the eye.
61. Part of the issue is whether the slope in the floor is how the church was originally constructed or whether it arose from subsidence (or both). The next question is whether it has remained sloped or has gone through a phase of its history when the floor was level and, if so, whether the slope reappeared during reordering as a way of emphasising the mediaeval history of the church. The topic poses interesting questions. HE considers there are elements that suggest that the floor was level at an earlier period pointing to an engraving which shows the surface in that area as level and aligning with a scar on the chapel steps; the CBC sees no reason for laying a floor on a slope and favours subsidence as the explanation. The Petitioners believe that certain of the sloping was deliberate planning as opposed to subsidence and have set out their own likely explanation and feel that there is strong evidence based on the engravings and pictures, the scar on the steps and the location and relocation of certain ledger stones at an identifiable historical point in time. SPAB warns of a narrative replacing hard evidence and suggests that further evidence is required from a qualified and experienced stone conservator.
62. I was shown various prints and other materials by the Petitioners which do suggest there was a time in the late Georgian period when the floor was flat. Of course, it is possible that the artists were removing what they considered to be blemishes and there is no conclusive evidence. I am not convinced that the Petitioners will necessarily benefit from even a stone conservator's opinion and also I do not believe that the answer would be conclusive of the outcome to the proposal in any event.
63. This Cowper chapel is to be capable of partition in the proposal for the reasons given by the Petitioners. I examined the Cowper chapel floor area with its modest slope. However the slope got there and whether it is the original one or a mediaeval revival of the nineteenth century and whether it was by deliberate design or the effect of subsidence; having assessed its significance, the crucial question is how strong the Petitioners' justification for levelling the floor is.
64. The justification as set out by the Petitioners is that the levelling is primarily necessary to accommodate the double doors so that they are both the same length and can swing open to the full extent. SPAB's observation that the problem of the necessary space to accommodate the underneath of the doors could be addressed through a more carefully considered design is not in my judgment giving enough weight to the careful thought given to appropriate doors which will open and close this space and of which the church can be proud as they will have at least as much (and probably more) effect on the significance of the Cowper chapel space as does the sloping floor.
65. The effect of levelling the floor is difficult to assess in terms of damage to the overall AHS of the building as a whole because of the uncertainty of its cause and its past, but I would not assess it as greater than low to moderate at the highest. Given the use to which the space is going to be put and the way it will appear when the first phase of the project is complete, I do not see it as being out of step with the rest of the building.
66. I grant the faculty as prayed. I was given a copy of the conservation report at my viewing and read it in the days following. It is unfortunate that, whilst it does not suggest any alteration in the works proposed, it does raise urgent concern about the stability of the painted ceiling which will require a detailed condition survey which, the conservators advise should be before the works, the subject of this faculty, commence.
67. I impose the following Conditions:
 1. If not yet already confirmed, there must be an archaeological watching brief during the works to the floor;
 2. The DAC must be notified of the contents of the preliminary conservation report on the ceiling.

3. A timetable for the commencement of works and the preparation of a detailed condition survey must be prepared by the Petitioners having been agreed by both the Petitioners and the conservators and approved by the DAC.
4. Data loggers must be installed in the interior and a data logger on the exterior of the church as directed by the conservators before the works, the subject of this faculty, commence and must remain in place for at least 18 months afterwards or for such other time period as the conservators recommend.
5. A timetable for any necessary remedial work on the ceiling following from the detailed condition survey report must be prepared by the Petitioners having been agreed by both the Petitioners and the conservators and approved by the DAC after consultation with at the least the Church Buildings Council and Historic England. Faculty consent will need to be obtained for these works.

68. I make no order as to costs.