

Neutral Citation number: [2016] ECC Bri 8

**IN THE CONSISTORY COURT
OF THE DIOCESE OF BRISTOL**

IN THE MATTER OF

**A PETITION FOR A FACULTY FOR
ST. MICHAEL AND ALL ANGELS,
HIGHWORTH, SWINDON**

**JUDGEMENT
(12.09.2016)**

1. The Petitioners (The Reverend Geoffrey Sowden, Mrs Rebecca Bailey and Mrs Helen Tombs), by way of a Petition dated 20 July 2015, seek to re-order the church of St. Michael and All Angels, Highworth, Swindon (the Church) in the following manner:
 - A. The creation of an extension to the north side for W.C.'s and a plant room for new boilers.
 - B. Providing glazed doors to the south porch.
 - C. The raising and levelling of the floor throughout and new underfloor heating.
 - D. The removal of pews and platforms, retaining and relocating 6 pews to the Warneford Chapel and 6 choir stalls and frontals to be relocated within the chancel.
 - E. The introduction of new chairs.
 - F. Creating a new first floor meeting room above the Cullerne Room with a staircase.
 - G. The re-siting of the rood screen and sculptures.
 - H. The re-siting of the font.
 - I. Replacing the pipe organ with a hybrid digital organ.
 - J. Creating a first floor meeting room and a kitchen / servery in the north transept.
 - K. New lighting and wiring throughout.

2. The estimated value of the proposed works is £1,100,000 including V.A.T. and the Petition indicates how such funds can be found. Full planning permission has been granted by Swindon Borough Council for the proposed extension to the north side. In support of the Petition were minutes from the Parochial Church Council which met on 7 occasions from

July 2010 to September 2014 to discuss different iterations of the proposals following consultations. The proposals received unanimous approval, the only dissent being on one occasion when an additional proposal was removed from the scheme. The above proposals were recommended for approval by the Diocesan Advisory Committee on 20 October 2014.

3. In addition to the comments made by the various societies as documented below, there was one letter of broad support received by the Registrar and numerous letters of objection and a public petition.

HISTORICAL SIGNIFICANCE

4. The church is a Grade 1 listed building and is sited within the Highworth Conservation Area. The building dates back to Norman times with a record of clergy and patrons since 1290¹. The top of the tower which was built around 1460 can be seen from any direction on the approach to Highworth. The manor at Highworth came into the possession of the Warneford family in 1542 and that family has played a significant role in the life of the church since. A 15th Century niche containing a statue of Christ is built into the wall above the west door. There is an area of damage caused by a Cromwellian cannon ball to the left of the west door. The tower contains a ring of bells dating from the 17th, 18th and 19th centuries, some of which have been re-cast in the 20th century.
5. Internally, through a large wooden door in the south porch is a font on the left dating from around the 15th century. Above the door is a Romanesque tympanum which appears to predate the 12th century church and is extremely rare². Between 1861 and 1862, the church was substantially restored by John West Hugall³. This included a major overhaul of the medieval walls and rood and an almost complete refurbishing of the building and remodelling of the sanctuary. Hence, the pews date from Victorian times. In the south-eastern corner of the church is the Warneford Chapel, which has memorials to family members on its walls. The chancel contains some 15th Century Misericorde chairs. The altar dates from 1925, with the previous altar having been relocated to the Warneford Chapel. However, the Victorian re-ordering is evident with the Minton tiles on the sanctuary steps. The window on the south side of the chancel dates from the 1860's. The east window and the rood screen date from 1933 and were a gift from a former parishioner. To the north side of the chancel, the arches were filled in during the 1980's to create a meeting room known as the

¹ Statement of Significance

² Addendum to Statement of Significance p17

³ VS letter 03.11.2011

Cullerne Room. To the left of the rood screen in the nave is the pulpit which is thought to be 17th century. The organ is currently sited in the north transept and it was a gift from Sir Henry Warneford. It has been rebuilt and relocated in 1908 and 1974. At the east end of the north aisle is the Millennium Window from 2002. Beside it is a large panel bearing the Royal Coat of Arms of presumably George III. There is also an ancient chest in the nave whose origin, purpose and age have not been determined. At the western end of the nave is the tower, with a fan vaulted ceiling. The window at the western end of the nave dates from mid Victorian times.

6. It is clear that the church has evolved over time, as most churches have. The main structure of the church reaches back more than 600 years. Its furnishings, apart from the aforementioned notable exceptions, mainly date back to the 19th and 20th centuries. Where a church has been re-ordered in a particular style and a particular period, care has to be taken to evaluate the importance of what was done in terms of its historical significance. There is no doubt that the Victorian restoration has been important for the last 150 years in the life of the church. Therefore, I have no hesitation in viewing the church as being a building of high architectural significance and historic interest, both internally and externally, and nationally and locally.

PETITIONERS' JUSTIFICATION

7. In explaining their motivation for the proposals, the Petitioners wrote⁴:
'St Michaels Church Highworth is a 13th century listed building with 21st Century needs. The building needs to be made into a usable building for the community for the future generation. The building at this present time is as it was in the Victorian times with large pews that are inflexible and uncomfortable to sit on for any length of time. They cannot be moved easily to allow for flexibility in the building. The church has uneven flooring with steps with the building, with two large steps into and out of the main door. This allows for difficult access to the one disabled toilet. The building had only one toilet which is inadequate for the needs of the building and the future community needs of the building. The kitchen area is a small area and is in need of complete refurbishment at the present time to bring it up to the required standard. Its size and facilities are inadequate for the proposed community needs of the building. The refurbishment will provided a building accessible to all the community, with a flexible useable space, with moveable seating to

⁴ Churchwardens Supporting Information (Reordering Faculty Application Letter Appendix 2) dated July 2015

allow for and accommodate a wide variety of community needs...we are limited in what we can offer and our plans to encourage and grow men's groups, youth and children's work, holiday clubs, café church, messy church and other outreach activities have been frustrated by the inadequate facilities.'

The proposals arise out of a process of evolving plans generated through the Big Picture Group who consulted extensively with local residents and parishioners and interested groups and societies. The church's ambition is to significantly increase the range of activities that the church can cater for, both as part of Christian witness and as a venue for local people to visit.

8. The Church has a diverse range of church styles⁵ and opportunities to encourage fellowship. It provides 4 services on a Sunday for different age groups and traditions. On a 5th Sunday all congregations meet together for a single celebration service. The Petitioners emphasise the need for flexibility of arrangements for services and how they feel inhibited by the lack of facilities and inflexibility of the church furniture. I am persuaded that there is sufficient missionary motivation for the proposed changes to be considered and that the objectives for making the church a more accessible and suitable venue for the local community and for Christian worship are legitimate and appropriate.
9. However, the proposals have attracted a significant amount of opposition, although no one wished to become a party opponent. I have read the numerous letters and the public petition that were sent in and have taken account of the concerns that were raised when considering the harm that may be caused by each of the proposals.

APPLICATION OF FACULTY JURISDICTION RULES

10. When the Application for the Faculty was lodged, the Faculty Jurisdiction Rules 2013 were in force. From 1 January 2016, the Faculty Jurisdiction Rules 2015 came into force. Rule 28.3 (1) of the FJR 2015 states that *'The Faculty Jurisdiction Rules 2013 continue to apply to proceedings in a consistory court that were started before the 1st January 2016 as if these Rules had not been made, save to the extent that the court orders otherwise.'* When I gave directions on 26 July 2016, I proceeded under the Faculty Jurisdiction Rules 2015. I ought to have ordered in those directions that these proceedings would proceed under the FJR 2015 rules and for the avoidance of doubt, I do so order. In any event, the same power existed

⁵ Statement of Need p46

under Rule 13 of the FJR 2013 for me to direct that a hearing was not necessary with the same conditions which have been complied with.

CONSIDERATION ON THE PAPERS

11. In Chancellor Gau's Directions of 4 November 2015, he ordered that the *'Petitioners must submit, within 28 days, written statements detailing precisely the re-ordering that is proposed, together with any written evidence supporting their case. The Petitioners must deal with the objections that have been raised and address the questions set out in the case of Duffield, St. Alkmund [2013] Fam 158.'* He went on to state that *'If an objector can be identified to present the case for the objectors, that must be done as soon as possible. That objector must, within 28 days of receipt of the Petitioners' written statements, submit a written statement dealing with the objections and dealing with matters raised in the Petitioners' statements...'* He directed that *'bearing in mind the extent of the objections in my Judgement a hearing should be held.'*
12. It would seem that Chancellor Gau's decision to direct that there should be a hearing was in the context of him considering that the Petitioner's case was underprepared and was likely to be challenged on all points by a critical and well organised opposition.
13. Subsequently, detailed statements were served by the Petitioners in compliance with Chancellor Gau's Directions. In addition, a detailed statement was received from Mrs Josephine Clark, a resident of Highworth who was actively involved in the local community, but not a member of the church, who appeared, due to her regular correspondence with the Registrar to be taking on the role of lead objector and a would-be party opponent. In her statement of 26 February 2016, Mrs Clark had instructed counsel who assisted her to make submissions that dealt with the relevant issues of law and identified the relevant facts in support of her objections to the proposals. This fulfilled Chancellor Gau's expectations in his Directions.
14. However, Mrs Clark has not sought to become a party opponent. As such she does not wish to call evidence or cross-examine the Petitioners or their witnesses. No one else has come forward as a party opponent. As a consequence, matters had moved on from when Chancellor Gau had made his original decision concerning the need for a hearing. I have now had the benefit of seeing a considerable amount of evidence with well-argued written submissions concerning the issues to be determined. Thus with no party wishing to become a party opponent, I gave directions on 26 July

2016 that I was minded to determine the Petition without the need for an oral hearing. The Petitioners responded to those Directions with their written consent⁶. Mrs Clark wrote to the Registrar on 1 August 2015 expressing in great detail her surprise at no longer being required to give live evidence as a witness.

15. In coming to a decision on whether there should be a hearing, I have had regard to the overriding objective of the Faculty Jurisdiction Rules 2015, in order to deal with the case justly. The overriding objective states that I must deal with parties on an equal footing, but the Petitioners are the only party. I must bear in mind that a hearing causes expense. I should deal with the case in a way that is proportionate to its complexity and there is a need to deal with matters expeditiously and fairly.
16. The purpose of a hearing is to test the evidence, where there are two parties and the Chancellor wants to have the evidence tested. One side tests the evidence of the witnesses called by the other side. Submissions are then made as to the evidence that has emerged and the conclusions that can be drawn. A hearing is useful when there is a conflict between experts called by both parties. In this case, no one has emerged as a party opponent who wants to test the evidence of the Petitioners and who wants to call evidence to contradict that of the Petitioners. I do not see the need to test the evidence in a hearing given the lengthy submissions and correspondence that I have received on the proposals.
17. Mrs Clark considers that as a potential witness she has a right to give live evidence, especially as mention has been made previously of her giving live evidence. Although I appreciate how Mrs Clark understood that she was to give live evidence, her belief that she has a legitimate expectation that she will give evidence and that the Court must honour that expectation is a mistake. If she were correct I would be obliged to hold a hearing where no challenge would be made to the Petitioners' case and Mrs Clark could be called by me to repeat what she has put in her detailed and carefully considered witness statement. I do not consider that anything extra can be gained from hearing from Mrs Clark in person that has not already been expressed by her in her representations and witness statement. I am required to consider whether I can deal with the issues raised in this Petition fairly on the face of the papers and I believe that I can. The Petitioners have given their consent to my determination on the papers. Mrs Clark is a potential witness not a party and so her consent is not required. As a consequence, I do not consider that a hearing is necessary.

⁶ Pursuant to Rule 14.1.(2)(b) of the Faculty Jurisdiction Rules 2015

THE LAW

18. In Re St. Alkmund, Duffield⁷, the Court of Arches proposed the following balancing exercise to assist with the determination of applications that may cause harm to a historic church:

1. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?

2. If the answer to question (1) is “no”, the ordinary presumption in faculty proceedings “in favour of things as they stand” is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals (see Peek v Trower (1881) 7 PD 21, 26-8, and the review of the case-law by Chancellor Bursell QC in re St Mary’s, White Waltham (No 2) [2010] PTSR 1689 at para 11). Questions 3, 4 and 5 do not arise.

3. If the answer to question (1) is “yes”, how serious would the harm be?

4. How clear and convincing is the justification for carrying out the proposals?

5. Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building (see St Luke, Maidstone at p.8), will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade 1 or 2, where serious harm should only exceptionally be allowed.’*

A. PROPOSED EXTENSION TO THE NORTH SIDE

19. The planning application for provision of new W.C.’s and a plant room in an extension to the north side of the church, received planning permission on 10 July 2015. A report from Artemis Heritage⁸ explained how a north door had been discovered in the north wall that appeared to have been blocked up in the reordering that was conducted during the Victorian period. The report concluded that:

⁷ Re St. Alkmund, Duffied 01.10.2012 para 87

⁸ Supplementary Report on North Door Artemis Heritage dated February 2015

‘The proposal is to: reveal, unblock the doorway, reconstruct the arch and install a new outward opening door must be considered as a substantial impact on a heritage asset of high significance. In this case the impact must be regarded as enhancing the appreciation and understanding of the heritage asset. Revealing the door substantially enhances the understanding of the evidential value of the heritage asset. Using an existing doorway rather than creating a new opening in the medieval fabric helps to preserve the historic value of the heritage asset. The reconstruction of the new arch at the head of the door is to some extent speculation, but is based on the design of the door on the south side. In the circumstances this seems to be a reasonable aesthetic solution.’

20. The Church Buildings Council⁹ supported the proposal for the extension provided that there was careful attention to potential archaeology.
21. However, other consultees for this proposal sought to persuade the Local Planning Authority to refuse the application. The Society for the Protection of Ancient Buildings¹⁰ opposed the application on the grounds that it did not consider that the Petitioners had justified the need for the extension and that it would have a major impact on the church’s setting. The Ancient Monuments Society¹¹ supported this opposition. Some of those who wrote to the Registrar raised objection to this proposal.
22. In her submissions, Mrs Clark opposed this proposal stating that she was unconvinced that access to the existing toilets could not be improved or that additional provision could not be made within the existing footprint of the church.

REASONS FOR DECISION

23. I have of course had regard to the fact that this proposal received planning consent from the Local Planning Authority and the decision of St. Mary’s, White Waltham (no.2) [2010] Fam 146, where Bursell Ch. concluded that:
- ‘If the matter has been properly aired before such an authority or inspector the consistory court is entitled in my view to accept the planning decision as a reasoned starting point from which to begin its deliberations. In such circumstances it is insufficient for an objector merely to voice dissatisfaction with a decision: any*

⁹ CBC letter dated 31.10.2013

¹⁰ SPAB letters 24.10.2013 & 16.06.2015

¹¹ AMS email dated 15.06.2015

objection must itself be reasoned and supported by proper evidence.'

24. In considering the justification for this proposal, it is clear that any large building that wishes to make itself available and relevant to a large amount of people in current times and in the future has to consider whether it is possible to have expected levels of toilets, accessible to all and has appropriate heating. Whilst this may not be achievable in all historic buildings, it is my view that this justification is both reasonable and achievable in this building, by placing them outside of the building.
25. Any breach of a medieval wall can be regarded as causing significant harm to a heritage asset of high significance. However, this can be mitigated by the fact that the breach is the site of a pre-existing doorway that had been blocked up presumably at the time of the Victorian re-ordering. As such, the harm on the inside of the church is minimal. On the outside, the church has previously had extensions to its northern and southern sides and therefore although harm will be caused to the external walls, it is mitigated by it being proportionate to the porch on the opposite south side of the church. Indeed, the proposal improves the relationship between extensions and the north transept windows, where the current extension is arguably too close to one particular window.
26. Having regard to the mitigated harm and the significant public benefits that the facilities would provide, I have no hesitation in concluding that on balance the benefits outweigh the harm and this proposal should be allowed.

B. PROVIDING GLAZED DOORS TO THE SOUTH PORCH

27. The Petitioners seek to add glass doors¹² to the inner and outer parts of the south porch in order to create visibility of activities for visitors arriving at the door. They hope that this will achieve a more open and welcoming ambience.
28. The Ancient Monuments Society¹³ opposed the proposal for glass doors on the outside entrance of the south porch, suggesting that they '*conjure up the office block rather than the ancient church*' and that they constricted movement in and out of the porch.

¹² Statement of Need p25

¹³ AMS email dated 15.06.2015

29. The Society for the Protection of Ancient Buildings¹⁴ objected to the glazed doors on the basis that

‘Porches did not traditionally have doors to their outer thresholds which symbolised the role of porches as parish spaces open to all and they were used for a wide range of administrative and social functions. Glass in this location would reflect light and would consequentially appear opaque with the likely effect of undermining the objective of making the church appear more inviting.’

30. Historic England¹⁵ objected to the glazed doors on the basis that:

‘the proposed doors will have a significant and highly detrimental impact on the appearance and character of this mediaeval south doorway and the porch, together with the church’s overall external appearance on this elevation.’

31. Some of those who wrote to the Registrar objected to this proposal.

DECISION AND REASONS

32. The porch dates back to the 15th century¹⁶ and therefore it is of significant historical interest. I consider that the proposal to add a glass door to the inside of the porch as it joins the nave would cause limited harm but the proposal for glass doors to the outside of the church would cause significant harm to the architectural and historic interest of the church. The building has looked the same from the outside and operated as a porch for 500 years. Porches have acted as refuges for the homeless and they have acted as meeting places for activities that have long time ceased.

33. The justification for glass doors is transparency, allowing people outside to see a warm and welcoming church. In some churches, the addition of glass doors have proved a positive benefit, especially where the church is younger than the current church or where they have been replacing an existing door. Glass doors with draft excluders also assist in keeping heat in a church which older wooden doors cannot do.

34. I have considered this proposal in two parts. There is great sense in allowing the wooden door in the west porch to swing 180 degrees so that it lies flat and for a glass door to be positioned so that when the church is open, it appears inviting regardless of whether a service is on. When closed, the glass door set flush in front of the wooden door, will reveal clearly the

¹⁴ SPAB letters 24.10.2013 & 16.06.2015

¹⁵ HE email dated 25.06.2015

¹⁶ Addendum to Statement of Significance p13

wooden door behind it so that such harm that is done to the historic building is reduced. On balance, I will allow an internal glass door and the rehangng of the wooden door.

35. However, the proposal to remove the external wooden gates and add two glass doors to the outer aspect of the porch, in my view would cause substantial harm to the character and architectural significance of the entrance to the porch. I find merit in the objections raised and I unable to find that the justification for these doors is sufficient to outweigh the harm caused. Therefore, on balance I refuse this part of the proposal in relation only to the exterior doors and removal of the gates.

C. LEVELLING OF THE FLOOR AND UNDERFLOOR HEATING

36. The proposal is for a level stone floor in the nave that will remove the chancel step. As such it will cause some harm to the Victorian re-ordering. The existing floor is covered with timber and relatively plain tiles¹⁷, is multi-layered with pews on timber plinths and there is an ever present risk of tripping accidents. It also impedes access for those with mobility issues. The proposal for a uniform stone floor will unify the whole of the nave and remove the concerns over accidents and access.
37. The Church Buildings Council¹⁸ offered its support for the levelling of the floor and recommended careful attention to the archaeological implications of the rationalisation.
38. English Heritage¹⁹ appeared not to object to the floor being raised and levelled provided that an archaeologist was employed to survey what might be under the current floor prior to the new floor being added.
39. The Society for the Protection of Ancient Buildings²⁰ did not object to this proposal.
40. The Victorian Society's comments were primarily directed towards saving some of the Victorian pews.
41. Whilst some residents from Highworth objected to all the proposals a number of residents did not object to the levelling of the floor of the nave. There was concern over whether the blue tiles on the Chancel steps would

¹⁷ Addendum to Statement of Significance p21

¹⁸ CBC letter dated 23.09.2011, CBC letter dated 31.10.2013

¹⁹ EH letter dated 18.10.2013

²⁰ SPAB letter 15.11.2011

be covered by this proposal and I can confirm that they will remain visible and unaffected.

42. Mrs Clark did not consider that the case for raising the floor had been made out.

DECISION AND REASONS

43. I have considered the significance of the existing floor in the nave and the part affected in the chancel and determine that its significance is limited solely to its consistency with the Victorian re-ordering. I note that the Victorian Society is not submitting that the floor of the nave or chancel should remain visible. In all other respects, the nave floor is a feature of the building that detracts from its utility and most certainly does not contain features of significant historical note or value. Hence, when considering whether the proposal to cover the floor and make it uniform outweighs the harm done to its historical significance by covering it up, I have no hesitation in concluding that the harm done would be outweighed by the benefits of a bright level floor. The introduction of underfloor heating will significantly improve the building as a welcoming and comfortable venue. Accordingly, I allow the new floor and underfloor heating.

D. REMOVAL OF THE PEWS

44. The main pews were introduced in 1856 and were made from Victorian oak and elm. There is evidence that they have been attacked by woodworm and some have splintered. The Petitioners seek their removal to provide a more flexible space for services.

45. The Church Buildings Council '*warmly endorsed...plans that the pews should be replaced by wooden furniture and hoped both the parish and the DAC will be persuaded of the distinction these will bring to a fine interior.*' It²¹ felt that the former choir stalls should be retained as they had presumably survived a previous re-ordering of the church. English Heritage²² expressed reservations concerning the extent of pew removal.

46. The Victorian Society stated that '*We would regret the complete loss of the nave pews which, with their distinctive trefoil-headed bench ends, make a prominent visual contribution to this part of the building. However, we would be prepared to concede their removal if the scheme is revised to lessen its impact on the eastern arm of the church.*'

²¹ CBC letter dated 23.09.2011, CBC letter dated 31.10.2013

²² EH letter dated 18.10.2013

47. The Society for the Protection of Ancient Buildings²³ stated that there was a strong case for retaining at least some of the pews perhaps making them moveable.
48. Most of the letters of objection, including the comments from Mrs Clark, cited the removal of the pews as being something which residents of Highworth opposed.

DECISION AND REASONS

49. I fully understand that pews are something which both regular worshippers and occasional visitors to the church have come to recognise as being an essential part of the church's historic fabric. Although I have not been told that worshippers tend to sit in the same pews each service, it is quite probable that some do and they have become accustomed to knowing their regular place and people knowing when they are ill or away when they are absent from that pew. The fondness with pews over many generations has been a noticeable feature of the Church of England which survives today especially in many rural communities. In some churches, there is no desire to remove pews as they provide a link to the past and nothing of significance would be gained by their removal. However, in other churches, where there is a desire to make the church more appealing, where the viewpoint for a service is not just eastwards, where there is the need for a more flexible space to accommodate different events and where the awkwardness of the building means that chairs can provide more seating and better visibility, there can be good sense in considering changing the seating to pews.
50. The removal of the pews from their current location would have a significant impact on the historical building, as these are part of the Victorian re-ordering of the church. In the building's history, the Victorian re-ordering has made a significant and long lasting contribution and therefore any proposal to interfere with that contribution needs significant justification. The visual perception of pews in a church, contributes to its historic nature by the repetition of straight lines and the ordering of the aisles. All of this fondness and familiarity has no doubt resulted in the vociferous objections to this proposal.
51. The Petitioners submit that the removal of the pews is at the heart of what they wish to achieve by opening up the church through creating a flexibility

²³ SPAB letter 15.11.2011

of usage of the building. There can be no doubt that such flexibility can be achieved by the introduction of chairs. Indeed, many of our ancient Cathedrals have chairs rather than pews so that they can be added to or removed as the service or civic function requires. It is for these reasons that many of the historical societies, including the Victorian Society, seek a compromise on this proposal rather than a complete refusal. The Petitioners' aspiration has been achieved in many churches across the country when there is movable seating. It is therefore, in my view, a significant justification and a necessary one if this church is to fulfil its mission objectives.

52. This is not the first adjustment to the Victorian pews. There have been pew removals in the past in the south aisle and there are no ordinary pews where the crèche is held, nor surprisingly in the chancel. The current 4 choir stalls are sited in the north aisle of the nave, perhaps to be close to the organ, and appear to have been disunited from the two choir pews that are currently in the chancel. The current pews are screwed to wooden platforms and each platform is raised above its neighbouring aisle. As the proposal to level the floor is necessary, this creates difficulties for keeping the current pews stable so that they do not move about as they are required to be unsecured. I do not consider that they could be retained and made mobile as this will restrict the flexibility that the Petitioners are seeking to achieve.
53. In balancing the harm caused versus the potential benefits from removing the pews, I come to the conclusion that the benefits from their removal outweighs their retention. The Petitioners have set their minds on making St. Michael and All Angels a church that is an open and flexible building to be used by the wider community for functions that not just include worship and church services. I support this ambition as it provides the congregation and those who work for the church an opportunity of witnessing to those in Highworth outside of the context of a church service. This allows them to show that the church, both as a building and as the people of God, is relevant to the lives of the people of Highworth.
54. I support the proposal for 6 Victorian choir stalls to be saved and it is my view that they should be placed in the chancel. In addition, 6 ordinary pews should be retained and added to the Warneford Chapel. This then concentrates the best of the Victorian aspects of the church in locations where they can best be appreciated and are less likely to be re-ordered by future generations. For the avoidance of doubt, the two prayer desks and seats that are currently in the chancel should remain in the chancel and the three misericords should ordinarily reside there as well.

E. INTRODUCTION OF NEW CHAIRS

55. As a consequence of the removal of the pews from the nave, the Petitioners seek to introduce new Howe 40/4 chairs to provide flexible seating for the different uses proposed within the church.

DECISION AND REASONS

56. I have considered whether the existing pews should be retained and made mobile. I do not consider that they would provide the necessary mobility and flexibility that a chair can offer.

57. The Petitioners favour the Howe 40/4 chair without explaining why. I have seen criticism of this chair in the submissions from Mrs Clark and I agree with some of what is said. Judging by the pictures of this chair, the metal legs are entirely out of keeping with the historic nature of this building.

58. I direct that the Petitioners select a chair in consultation with the DAC that is similar to a Theo chair. It should be made entirely of wood, with no obvious metal or fabric. It should be stained to a similar colour to the existing woodwork and retained choir pews. It should have the option of being linked and should be stackable. It should have a straight back and not arched at the top so that row of chairs creates the uniformity of lines that the pews formerly had.

59. The pews should be disposed of firstly to another church, but if none require them then by sale. The Petitioners must consult with the Victorian Society prior to disposal. It should be noted that the Victorian Society will be aware of restoration work in Victorian Churches including those damaged by fire and so may have some useful suggestions for the pews.

F. SUBDIVISION OF THE CULLERNE ROOM

60. The Petitioners seek to place a mezzanine floor within the Cullerne Room in order to provide additional meeting space and a vestry. The proposals are also aligned to another proposal to relocate the kitchen area.

61. The Church Buildings Council²⁴ supported the proposal for the subdivision of the Cullerne Room provided that attention was paid to minimise the impact of the mezzanine floor on the windows and wall tablets.

²⁴ CBC letter dated 31.10.2013

62. English Heritage²⁵ stated that there *'does appear to be a genuine need for a number of meeting rooms for church activities'* but opposed the proposal for subdivision of the Cullerne Room: *'without further information to show how this will be achieved without detriment to the wall memorials and the character of this space.'*

63. The Society for the Protection of Ancient Buildings did not object to the principle of the proposals.

64. In Mrs Clark's submissions it would seem that she did not accept the need for the Cullerne subdivision but instead stated that *'it would be better to contain the new rooms within the Cullerne room, rather than extend the process of "room conversion" further into the mediaeval form of the church.'*

DECISION AND REASONS

65. The Cullerne room has already harmed the historic fabric of the church and the proposal would cause limited further harm that would not be seen except from within the current Cullerne Room. The insertion of a floor that crosses the windows would have a substantial impact on the appreciation of this part of the building.

66. However, the proposals will not cause any physical alteration to the windows and this mitigates the harm that could be caused. Furthermore, the proposal includes moving the memorials so that they can be better appreciated and this too mitigates the harm caused.

67. When weighing up the merits of the proposal, there are substantial benefits to the subdivision in terms of providing a useful meeting space and a vestry with no visual impact on the rest of the building outside of the Cullerne Room. On balance, the merits outweigh the harm caused and I allow this proposal.

G. REMOVAL AND RELOCATION OF THE ROOD SCREEN

68. The Petitioners seek the removal of the rood screen, primarily based upon the effect that the screen has upon the nave, cutting it off from the chancel and preventing the congregation from gaining the full effect of seeing the east window. In addition, it is suggested that the joinery is poor and in need of refurbishment. The proposal seeks to reposition the rood screen beneath

²⁵ EH letter dated 18.10.2013

the tower and the rood sculptures in the chancel in an arch adjoining the Cullerne Room.

69. The Church Buildings Council²⁶ supported the removal and repositioning of the rood sculptures to the wall enclosing the Cullerne Room as it would relieve the starkness of that wall and would be better than disposal.
70. English Heritage²⁷ stated that *'I do not believe that this screen is as low in significance as the Statement of Significance suggests. It looks similar in character and design to the altar rail and partitions that surround the Warneford Chapel adding meaning and architectural value to its location. However, I can also see that as a later addition to the church and without any clear evidence of an earlier screen in this position, it would be difficult to resist its relocation with the church.'*
71. The Victorian Society²⁸ opposed the repositioning of the rood screen and stated that it helps *'to define the chancel as a space capable of functioning separately from the rest of the church while its removal would deprive the interior of a good deal of visual interest and architectural value.'*
72. Mrs Clark in her submissions opposed the removal of the screen and suggested in effect that with the retention of the choir pews in the chancel the need for the space to be conjoined to the nave is removed.
73. There was concern raised in correspondence to the Registrar from residents of Highworth concerning this proposal.

DECISION AND REASONS

74. It seems to me unnecessary to comment upon whether a rood screen is theologically justified, as my task is to consider that it has been in situ for 80 years and contributes to the historical significance of the church. Whatever else it may symbolise, it is a demonstration to the present congregation of the love and devotion to Christ of a former parishioner, and part of the ever present reminder that this church building has been worshipped in by Christians for many centuries.
75. The Petitioners' justification for the proposal is that the chancel should be available as part of the main worship space. The repositioned choir stalls would be available to be used in services, either by a choir or the

²⁶ CBC letter dated 31.10.2013

²⁷ EH letter dated 18.10.2013

²⁸ VS letter dated 03.11.2011

congregation. If the rood screen remained in place, then this would not be possible. I regard the Petitioners' justification for the removal as significant.

76. I have seen the photographs of the church comparing the rood screen today with a time before the rood screen was constructed and before the current east window was installed. The photographs demonstrate how the chancel has been separated as a usable space from the nave during services by the partitioning imposed by the rood screen.
77. I am aware of the correspondence from some residents in Highworth over the removal of the rood screen and how they value it as an important part of the church's history. That of course has to be put in the context that either there had not been a previous rood screen or there had been a significant gap where one had not existed. Indeed, one was not added in the Victorian re-ordering enabling me to conclude that the intention then was to keep a clear line of sight from the nave into the chancel.
78. Clearly harm would be caused to the historical significance of the church by the removal of the rood screen and sculpture and harm would be caused to them by their removal from their current location and splitting them up.
79. However, their removal would also enhance the historical significance of other parts of the church. It is my view that their removal would enhance the historic significance of the original cruciform shape of the original church building by enabling the chancel to be visibly re-united to the rest of the church. Furthermore, it is my view that their removal would enhance the significance of the Victorian re-ordering as it would allow the nave and chancel to be viewed as they were when that work was done. The removal of the rood screen and sculptures would allow a clear view of the east end of the church from the west end door, with the wonderful east window, dedicated to the Patron Saint being clearly revealed to all. The benefits of revealing this window mitigates the harm caused by the removal of the rood screen.
80. As such, it is my view that the benefits of the removal of the rood screen and relocation of the sculptures outweighs the harm caused to their historical significance within the church. I agree with the proposal that the rood screen and gates should be relocated to the Tower and replace the curtains. I also agree with the relocation of the sculptures to the north wall of the chancel which is currently very stark and would be improved by their addition.

H. REPOSITIONING OF THE FONT

81. The proposal for the font is to move it from being to the left side of the south door to the right side of the south door.
82. The Church Buildings Council²⁹ supported the re-location of the font so as to free up space to create an improved welcome area and better access to the Parvis room. In particular, the door swings inwards and then all who enter walk into the area where the font is situated.
83. Mrs Clark did not specifically appear to oppose this proposal. She suggested that it needed further justification.

DECISION AND REASONS

84. Clearly the age of the font makes it an item of significant historical interest. However, its relocation does not harm that interest. The justification for its movement is consistent with the other proposals as it improves access into the church and enables the congregation to see the font better from the new seating. It also remains consistent with the symbolism of a font being close to the door and the start of our Christian journey. For those reasons, I do not find that the proposal would cause any harm to the significance of the church as a building of special architectural or historic interest and I will allow this proposal.

I. REMOVAL AND REPLACEMENT OF THE ORGAN

85. The proposal for the complete replacement of the organ derives as much from the limitations of the current organ as it does from the overall scheme to re-use the space where the current organ is sited and the lack of appropriate other space for the current organ to be re-sited to. A preliminary organ report³⁰ from the organ adviser to the DAC stated '*The organ has served the church for many years, but now is in seriously poor playing state...*'
86. The Church Buildings Council³¹ did not object to the removal of the pipe organ and felt that it should be offered to another church as it appeared that it was not beyond repair.
87. Mrs Clark does not object to the replacement organ proposal.

²⁹ CBC letter dated 31.10.2013

³⁰ Email to Stephen Page from Philip Wilby 25.04.2012

³¹ CBC letter dated 31.10.2013

DECISION AND REASONS

88.I have considered the harm that would be caused by the removal of the organ. I do not consider that the current organ is regarded as being of significant historical interest nor that it contributes to the historical significance of the building. Anyone looking at the organ will note that it is a more recent addition to the church, doubtless replacing earlier versions.

89.The current organ has reached the end of its useful life and therefore replacement is necessary. A new first class organ would significantly contribute to the church's worship as well as its potential as a venue for cultural performances and that this outweighs substantially any perceived harm that would be caused by the loss of the organ in its present location. Therefore, I allow the proposal for a combination organ with speakers as set out in the proposal by Modular Pipe Organs Limited and dated 31.08.2014. I direct that the D.A.C. should be consulted concerning the siting of the organ pipes and the materials used for attaching them to the wall and their colour. All efforts should be made for them to be unobtrusive where possible. The proposal gives no indication as to where other speakers may be sited and the D.A.C. should be consulted about these as well. For the avoidance of doubt, the small commemorative brass plaques for previous choristers, organists and ringers should be retained and displayed on the wall of the new vestry.

J. KITCHEN AND NEW FIRST FLOOR IN NORTH TRANSEPT

90.As a result of the organ being removed from the north transept, the Petitioners seek to build a kitchen with a room above. The north transept is part of the medieval fabric and the Petitioners accept that it of high significance³² to the building. The Petitioners submit that the prevailing situation with the organ in situ already uses this space and therefore the harm caused to the significance of the building has already been caused.

91.Mrs Clark in her submissions stated that the case for the provision of additional meeting rooms is weak. She objected to this proposal and suggested that the existing kitchen could be refurbished.

DECISION AND REASONS

92.One of the most important aspects of Christian mission is building friendships. Friendships are built through conversations before and after

³² Addendum to Statement of Significance p25

services and the relationships that develop. Those conversations are fostered through people staying after a service for refreshment or sharing a meal together before a study class. A forward thinking church has to try to provide modern catering facilities. A church that wishes to be used by the surrounding community has to have facilities that support those functions.

93. Having seen the pokey little kitchen that exists at the moment, I can fully understand why a proposal has arisen for modern facilities that are close to the centre of all activity in the body of the church.

94. Dealing first with the kitchen, I do not consider that any harm would be caused to the historic nature of the building by the addition of a kitchen servery that would have new oak bi-fold doors. Accordingly, I readily allow this part of the proposal.

95. However, I am concerned about the proposal for a room above the kitchen servery. As a result of seeing the north transept I was able to notice that the window in the north transept is slightly longer than the other windows in the north aisle. As a consequence, if compared with the proposal for the kitchen, more than half of the window would be visible over the top of the kitchen. Therefore, the openness of the space above the proposed kitchen if maintained, would allow the cruciform nature of the original church to be demonstrated by allowing light into this area.

96. Weighed against this, is the proposal to construct a room. The plan states '*a new mezzanine level above with oak framed fire rated impact resistant glazed screen.*' The plan makes such a screen appear opaque and there is no suggestion that the light from the window can shine through. Hence, this proposal appears to cause harm to the historical significance of the church by preventing its original design of a cruciform nature being visible and it prevents natural light from entering the church. It also proliferates the subdivision of space along the northern wall, taking account of the Cullerne Room, and the blocking out of windows, which has a cumulative impact that would be adverse to the historical significance of the church.

97. I have considered the justification for this room and am not yet convinced that the Petitioners have made a strong enough justification for a further room in this location, bearing in mind it could only be accessed by the able bodied. Therefore, I refuse this part of the application.

98. If the Petitioners wish to put forward a new proposal for this area, such as allowing it have a balcony so that it could provide seating, perhaps for a choir, then I would be happy to consider it. However, I am opposed to

anything that provides top to bottom obscurity as shown by the screen in the proposal.

K. NEW LIGHTING

99. The Petitioners submit that the proposal for new lighting is applying 21st Century technology to light up an old building that has the potential to be gloomy. There are currently no lights at high level and the windows are at a relatively low level and the ceiling does not reflect the light downwards. The existing lights are spot lights at high level and are not ‘low energy lamps.’

100. The Church Buildings Council³³ supported the principle of improved lighting but was concerned that the proposed solution would be overpowering.

101. Mrs Clark raised a concern over the cost of running the new lighting.

DECISION AND REASONS

102. Having visited the church, I can see how the church has the potential to be gloomy and how it could be transformed with modern LED lighting. Modern lighting allows for adjustments so that subtlety can be preserved in Evensong or an Advent Carol Service where the light from candles may be very important. It also allows a church to radiate light on gloomy winter mornings. The advantage of LED lights are that they are significantly less expensive to run and do not emit heat and rarely need replacement like Halogen lights. There is therefore a strong justification for the new lighting proposed.

103. In considering whether any harm is caused by their replacement, I consider that the existing lighting is of no historical significance. It is my view that the new lighting will transform the church to being a warm and inviting building that shows off its historical beauty for all to see. Accordingly, I allow this proposal and I direct that LED lighting is used.

FINANCE

104. Concern was raised as to the appropriateness of the use of funds towards these proposals to the Church. I understand that the church³⁴ has

³³ CBC letter dated 31.10.2013

³⁴ Statement of Need p57

honoured its commitments to the Diocesan Parish Share and I am satisfied that these proposals are therefore an appropriate use of funds.

105. I will give separate directions to accompany this judgement.

**MARK B. RUFFELL B.D. (A.K.C.)
ACTING DEPUTY CHANCELLOR**