

Neutral Citation Number: [2024] ECC Nor 2

IN THE CONSISTORY COURT

DIOCESE OF NORWICH

**In the matter of
HOVETON ST JOHN 2023-087981**

-and-

**In the matter of
THE PETITION OF THE REVEREND ELIZABETH JUMP, RECTOR, SUSAN COBB,
CHURCH WARDEN, and THOMAS HERMAN, PCC TREASURER & CHURCH FABRIC
OFFICER**

-and-

**In the matter of
THE REMOVAL OF UNDER-PEW HEATING AND SINGLE WALL-MOUNTED HEATER
AND THEIR REPLACEMENT WITH A NEW INFRARED HEATING SYSTEM AND THE
REMOVAL OF ALL PEWS AND THEIR REPLACEMENT WITH CHAIRS**

**Judgment of the Chancellor
February 19, 2024**

Etherington Ch:

INTRODUCTION

1. The Petitioners, by petition dated October 25, 2023, seek to remove all of the pews in this church and to replace them with chairs. They also seek to remove under-pew heating and a single wall-mounted heater and have both replaced by an infrared heating system. The church is a grade II* listed building.
2. The Diocesan Advisory Committee (“DAC”) recommended all of the works to me and did not feel that any part of the work was likely to affect (a) the character of the church as a building of special architectural or historic interest (b) the archaeological importance of the church or (c) the archaeological remains existing within the church or its curtilage and the DAC did not recommend consultation.
3. I considered that the works would have an effect on the character of the church as a building of special architectural or historic interest and directed that the Church Buildings Council, Historic England, the Victorian Society and the Society for the Protection of Ancient Buildings should be consulted.

STATEMENT OF SIGNIFICANCE AND NEED

4. In the Statement of Significance, the church is said to serve a community of around 1300 people in 700 households. Two-thirds are aged over 45 and just under a half are over 65. The church is on the edge of the village between the primary school and a

new development containing 25 properties of which a small proportion are social housing.

5. The date of the original building is 11th century but the mediaeval tower suffered a lightning strike in the 18th century and was replaced by the current tower, a squat, square tower in red brick. There are numerous interesting features including windows with fragments from the 14th century and significant panels. The Rood Screen is 15th century and retain some of the arms of local families. Memorials to the Blofeld family and their hatchments are “all around” and a fine example of the Stuart Royal Arms is over the south door. A small extension outside of that door houses a disabled lavatory and kitchen. The east window is a design of Ninian Comper. There have been some restorations. It is said that the pews date from around 1890-1910. They are not a set with the pulpit or chancel stalls. They sit directly on the floor. In 1952 the 16th century scissor-braced roof was again exposed. It had been covered up when the new tower was built. The under-pew heating (a subject of this petition) was installed in 2010. The original wooden block flooring was replaced in 2019.
6. Services are held fortnightly alternating between Holy Communion and an informal service. Holy Communion has a higher average number attending (24) than the informal service (15).
7. ‘Giving’ amounts to 60% of parish share and running costs. The church is also the beneficiary of a trust which allows for repair and refurbishment. Part of the agreement for the new housing development involved the gifting of land for a new car park and graveyard extension with £15,000 to fund ongoing maintenance.
8. With the exception of a few repairs and refurbishments, the church is said to be in good condition.
9. In the Statement of Need, it is pointed out that the church has lost a significant number of attendees through natural attrition and what is described as “reluctance to attend/change of habit”. The church has no young families despite the proximity of the school and several young families living in the housing estate.
10. It has a single aisle with pews to either side and what is described as a “small space at the rear of the church for the font, organ and a couple of tables for coffee mornings.” The church has disabled access but it is said that there is not enough room currently for wheelchairs or mobility scooters to navigate with ease once inside.
11. It is also said that in order to grow the congregation and serve it, better use needs to be made of the space especially if the church wishes to develop links with the school which currently only visits once a year. It is said that the pews “which are of no historical significance” will be replaced with stackable chairs. The Parochial Church Council (PCC) wishes them to be very lightweight and stackable because of the age of the stackers. It is said that identical chairs have already been installed in over 300 churches around the country. 16 of them will have arms and all, as I understand it will have a back book pocket and links to join them together. It is proposed to sell the pews for £1600 which will partly offset the cost of the project.
12. It is said that the removal of the pews will allow flexible layouts meaning that less formal worship as well as Holy Communion will be possible. For communion services the altar table could be moved to the front of the Rood Screen to be available for musicians to enhance worship or give concerts to raise funds and the space and warmth and light will encourage other groups to use the church including the neighbouring primary school.

13. The Petitioners concede that there is a village hall in Hoveton but say that some of the many community groups may find that the newly refurbished church is a “more congenial space to meet young and old alike”. The conclusion reached is that “the combined effect of these changes and those already completed will achieve the aim of facilitating worship, praise and community support for many years to come and growing our congregation.” The heating works will cost a total of £5,482 exclusive of VAT. The cost of the replacement seating is £7,436.10 inclusive of VAT. Any money raised by the sale of the pews will reduce the outlay.

THE VIEWS OF THE CONGREGATION

14. The PCC unanimously supports the proposal. Within the same Minutes, however, there are notes of dissent based on responses to a consultation on the pew sheet which the PCC says it has “addressed”. I am unclear how many people received the pew sheet and how many responded. I am unclear how many raised points of concern. Amongst the points noted in the Minutes are (a) “with new lighting church looks warmer – wood helps this and is sustainable.” I am unclear as to how this has been addressed. A further point (b) is that “people with mobility issues need something to hold on to. Pews are solid; chairs not so much.” This is an important concern since the Petitioners rely on mobility issues in part to justify the removal and I presume that the person who wrote in with this comment may have mobility issues or at least know something about the problem. Another comment is (c) “where would hymn books go?” I understand the Petitioners to have addressed this by specifying back pockets for hymn books etc. A final comment is (d) “does the village need another ‘space’? We already have a village hall and a community centre.” Whether this very important point has been adequately addressed is not clear to me on the available information.

THE CONSULTEES

15. All of the consultees had concerns about these proposals. The Church Buildings Council (CBC) had no objection in principle to the removal of the pews but it emphasised that they lent a “pleasant rhythmic regularity” to the appearance of the small nave which would be lost by the installation of chairs and asked the parish to consider the removal of a limited number of pews at the east and west ends to improve the use of communal space before embarking on full pew removal. It also suggested a more thorough “options appraisal” before embarking on another form of heating. The CBC said that it was “vital” that the PCC set out its current and proposed usage of the church so that heating requirements could be understood. It raised issues it had with overhead heating and consideration of running costs. It considered that the proposed heating was not in keeping with the listed status of the building. The CBC also had concerns over using metal-framed chairs and preferred all timber seating. It had anxieties, due to the size of the church, that stacking chairs would produce a cluttered effect on the appearance of the building.
16. The Society for the Protection of Ancient Buildings (SPAB) was more critical. It said that the brief Statements of Significance and Need did not follow the CBC’s template forms and did not provide a proper assessment of significance and only a very limited evaluation of the impact of the proposals. SPAB believes that the pews, as an ensemble, have a significant positive impact on the internal character of the church and that removal of the pews would result in a high level of harm to the space which would need to be commensurate with the public benefit. SPAB is critical of the degree of particularity given in support of the change and comments that the Petitioners (a) have not demonstrated the need for the fulfilment of mission in having less formal

services or why this would require the wholesale removal of the pews and (b) have not explained why moving the altar forward on occasions or creating space for musicians needs more than the removal of a few rows of pews. SPAB criticises the level of consultation and makes the same criticism of the proposed chairs as the CBC.

17. SPAB also has considerable concern at the proposal to install seven infrared heating units. SPAB says this: "The proposed use is of a utilitarian design which is not suitable for a highly listed church. We are concerned that two of the units will be positioned close to the medieval rood screen, and that the impact on the screen has not been examined. The units are of the type known as near, or shortwave, infrared. These have a much more rapid heating time and produce a more intense heat than far infrared. They are used industrially for paint stripping and for other industrial processes. Far infrared is gentler and therefore safer for historic fabric as it avoids rapid heating and cooling. In some East Anglian churches permission had been granted historically for near infrared and there is evidence of damage to historic fabric as a result. Ceramic panels, which are far infrared, are being installed in places like Chalgrove Church where there are sensitive wall paintings, as they are kinder to historic fabric than near infrared units. It should be noted that infrared heaters of all wave lengths have the potential for damage but this can be mitigated with good design and positioning. Our concern is that, if the potential for damage to historic fabric is not understood, then the supplier may fail to undertake the correct design of the installation that would be required to ensure that no damage is caused. We would urge the parish to seek the advice of a specialist heating consultant. A heating consultant will also be able to advise on running costs and the sustainability of different options."
18. SPAB says that: "we would suggest that the parish gives further thought to its needs and considers a compromise solution involving the removal of some pews at the east and west ends, with the retention of a meaningful block of pews in between. It would appear from the photos provided that the pews are moveable, or could easily be made so, and are of a size that could be moved, so retaining a block of pews should not limit the parish unduly if they wish to reconfigure the entire church on occasion. The parish should be mindful that opportunities to dramatically increase congregation size from the current level of 15-24 may be limited in this small community, and that, conversely, the changes proposed are likely to remove the church from the tourist trail, with a corresponding reduction in donations."
19. The Victorian Society (VS) expresses disappointment that it (and other consultees) had not been asked for their comments earlier. I suspect that sometimes there can arise a misunderstanding over whether the removal of items may damage the historical or architectural significance of a church on the basis of the item's intrinsic historic or architectural significance, as opposed to whether the removal of an item that of itself may not have great historical or architectural significance may nevertheless affect adversely the significance of the church as a whole. Both are relevant considerations, as is what will replace the item that is being removed or altered. I have mentioned this more generally for it to be considered in future.
20. The VS hopes that its views can still be taken into account and I shall take the views of all consultees into account.
21. It says that this "scheme of works would, if implemented, cause a high level of impact to the character and appearance of the interior of a II* listed interior." It criticises the limited information provided and the lack of evidence of a need for what is actually being proposed. The VS observes that "Hoveton is a highly-listed church...The benches were introduced by the diocesan architect *H. J. Green* as part of his restoration of the building in 1890." It adds that: as Simon Knott observes on his Norfolk

Churches site, the interior as it appears today is largely that created by Green toward the end of the nineteenth century. While the benches are evidently not intrinsically of the finest quality, they are nonetheless dignified, carefully detailed furnishings, constructed in oak, and, as an ensemble, they contribute considerably to the great charm and character of the interior. They also form an intrinsic part of Green's restoration, and, by extension, part of a major phase in the building's history and development. We do not accept that they are "of no historical significance", as the Statement of Significance, without any evidence, asserts. The Buildings of England also refers to six medieval bench ends applied to the 'Green' benches, although these are not mentioned in the Statement of Significance, and are not immediately visible in photographs in the Statements (although there would appear to be at least one poppy-headed bench located at the east end of the nave: is this one of the three referred to in the *Buildings of England*?). As it stands the Statement of Significance is simply inadequate, and does not comply with the Faculty Jurisdiction Rules." The VS considers that removal of all the benches would be of enormous impact. It believes that the harm would be compounded by their replacement with upholstered, metal-framed chairs and says that even if the principle of replacing the historic benches were to be acceptable here (which on the basis of the information supplied it is not), then it could only be so, in part, on condition that good quality, all-timber new seating is introduced in its stead.

22. Of the Statement of Need the VS comments: "Like the Statement of Significance, the Statement of Needs is simply not adequate and fails to fulfil the requirements of the FJR. This is the document in which the parish effectively makes its case; in which it evidences a clear and compelling need for the interventions it proposes. But all that it says is that *In order to grow our congregation and better serve our community we need to be able to make better use of the space especially if we wish to develop links with the school which only visits the church once a year.* This is an entirely laudable aim: surely nobody could have any issue with the parish better serving its community. The real question, however, is how specifically to do that, and how then (on the basis of a clear understanding of its significance and sensitivity to change) the building might be adapted to achieve it."
23. The VS adopts the criticism of the CBC and SPAB in respect of the heating proposals.
24. Historic England (HE) also has concerns and wrote: "We therefore believe that the removal of the pews would detract from the distinctive character of the interior and would result in harm to its significance." HE's specific concerns were similar to those of the other consultees.
25. I directed that the Petitioners (a) consider carefully the responses of the consultees and either (b) give me their response uploaded to the OFS or (c) request an adjournment of the petition (substantial if necessary) to reconsider what they really need and to see if they can seek to address the concerns expressed by consultees.

THE PETITIONERS' RESPONSE TO THE CONSULTEES' OBSERVATIONS

26. The Petitioners considered the responses of the consultees and have given me their response uploaded to the OFS. They say that there has been much discussion in the church about the removal of the pews and that a trial was conducted to remove two pews and that regular coffee mornings wholly fill this space with a need for more capacity. They concede that some members of the congregation would like to retain the current seating arrangements but say that others, the incumbent and all the PCC feel that this change is needed. They add that the entire congregation was made aware of the proposed changes and shown the notices whereby they could object.

27. As far as the pews are concerned, the Petitioners clarify that the three small pews with poppy headed ends and the historic pews in the chancel are being retained. The Petitioners say that the solid oak pews in the nave were installed around the turn of the 20th century and, as acknowledged in the objections, are of no significance in themselves. They are however very heavy so occasionally removing them and reinstating as suggested in one of the objections would not be feasible. They say that the suggestion in another of the objections to remove some rows from the front and some from the back is impractical due to the under-bench heating and doing this would remove all the flexibility of seating that is being looked for. They also say that “removing some rows only from the front to allow an altar table to come in front of the Rood Screen would reduce available seating necessitating some chairs being used at the western end and also some new heating. Similarly removing rows from the rear of the church would not allow flexibility of worship, require extra seating in chairs and again extra heating. In both cases the space could not easily be used for other events and activities.”
28. They say that “Hoveton St John is a small church and is very narrow, with no side aisles or spaces. This means the body of the church is very full, with one passage up and down the church, and this greatly limits use for anything other than services held with people sitting in pews facing forwards.” They argue that “we have much that we have tried, but doesn’t work, or that could be done so very much better. We hold a monthly Informal Worship service which is one of the best attended in the benefice, especially by those who don’t come to anything else. It would be so helpful in this service to be able to do things differently sometimes. Sitting together for a Café Church type of service, being able to move around for prayer, sitting together in a circle would all work well for this service and the lack of the ability to develop and change is limiting what we can do not only physically, but in exploring the spirituality of this growing group.”
29. They explain that they have a regular weekly prayer group which was started in St John’s but the lack of good heating, and the necessity of sitting in pews forced a move to the Vicarage as the only space where the group could sit together. This has made it less open and inclusive and is a long way for those in Hoveton to come. They say: “it also reduces the use of the church – we want prayer in our church. With a well heated open space this service will move back to the church and I know there are several who will join the group when it is back in the church.”
30. They say: “we have been asked for a reflective service to be a regular offering, and we would like to do this. But the wish is to sit together rather than in benches and we need space for this. There is a little space at the back, but it is right by the door, too small for the number that have indicated interest, and not the right setting for worship. Removing more pews at the front would bring a similar sized space, but this would leave a small number of pews in the middle of the church and is clearly not a good answer.”
31. As far as the school is concerned the Petitioners say that “the local school is next door to the church, and while they are not a church school, we have managed to build and maintain a good relationship with them. They make some use of the building for end of term services, and have asked for more but it doesn’t work with the building as it is. For example, they came in to experience the story of Easter and we tried to set up different areas in the church for the events of Holy Week and Easter. But the church has only a fairly narrow central aisle and no real space anywhere and it proved to be too difficult to do in the space we had, with children unable to move around and get involved. Of course we can go and do an assembly, but the school would love to use the church, and we would love them to be here. But currently it only works if they sit

in rows, and this isn't really appropriate for much of the work we would like to do together. St John's is the only church here with a school next door to it, and a gate connecting them. We could do so much more."

32. The Petitioners say: "we have a similar experience with adults when we try to use our very popular prayer stations at different times in the church. We can set up one or two at the back or the front, but then we need to try and use spaces inside of pew seating, and it's not really suitable. In church with side aisles there would be little more flexibility, but it is very difficult in St John's."
33. On community use, the Petitioners say: "we would like to increase community use. We run a very popular coffee morning for the local community, but it is self-limiting on numbers due to space. We can set up two or three tables, which fill up quickly, and then people have to sit in pews and try to turn to talk to those around. This is an area with an elderly population, and many struggle to get into the pews if the tables are full, and to then move enough to be with others. The narrow single aisle means people are walking around with hot drinks in a very tight space and accidents easily happen. We know that more will come to this regular event if there is more space and accessible seating, and that this is needed."
34. As regards the school the Petitioners say: "we have talked with the school about the possibility of use for a coffee morning for parents after school drop off, about running a uniform bank and other needed incentives, but we have no space to do it. We are currently planning Messy Church in the Benefice, and would like St John's to be one of the churches to host this, but at the moment it doesn't have the space."
35. The Petitioners say that they "understand that there is a hesitation to moving pews, but other than at the cinema or the theatre we rarely sit in straight lines anywhere nowadays, and cinemas and theatres are places where you observe but don't take part. And even they have moved to theatre in the round as they have wished to increase the level of audience involvement. We want to have a church where people are involved. Where we sit together, pray together, invite school and community to use our building, and to be able to use the space for its best purpose – to share the stories of our faith, the experience of prayer and the love of God. At the moment, we are limited by the way the space was set up a hundred or so years ago. It may have worked then, but we would like the opportunity to make it work now."
36. The Petitioners say of the proposed replacement of the pews with chairs that "much thought has been given to the chairs and advice sought from the various companies who specialise in church seating. Maximising use of the space in our small church was important - wooden chairs were discounted as they do not stack sufficiently for the storage space available. The proposed chairs stack to 25 high on a trolley allowing them to be moved to the lobby on the south side of the church when not in use. Wooden chairs weigh considerably more than the 4.9kg for these chairs which is an important factor in a church with an ageing congregation." They say that the colour chosen is "sober and discreet." They comment that "the proposed chairs are in use at over 300 churches of all types including two cathedrals... the fabric seat is anti-microbial and covid tested, durable and cleanable" and that "photos from some of the churches with this chair were examined and the aesthetic seemed to enhance the space and airiness rather than impact the general sense of repose and dignity. In this church the benches look rather shabby and if anything detract from the overall feel." They say that "cost too is an issue given that the church has installed a new floor, lighting, sound system, restored and stabilised the medieval rood screen and carried out significant structural work to the East wall and Tower and upgraded the kitchen in the last 2 years and intend also, with this faculty, to replace the unsatisfactory heating system. The

proposed chairs are one third the price of solid wood chairs.” They comment that “taking all the above into account there is a hybrid version of the chair which has a wooden back and fabric seat which may address some of the concerns expressed – it is within budget and acceptable to the Petitioners.”

37. In respect of the criticisms of the heating proposed, the Petitioners comment that “heating advice was sought from two companies who specialise in church work.” and argue that “the current underpew heating has insufficient heaters for the size of the church and does not heat the west end at all. Because of this they have to be switched on an hour before a service or event. Also we have noted it causing small splits in some of the benches.”
38. They say of the proposed heaters that (a) “the proposed modern, discreet infrared radiant heaters use a ‘magic lamp’ which removes the unsightly red glow of older versions (b) the new heaters only need to be switched on when heat is required saving money (c) the black colour of the beam mounted units will blend in with the beams and being sited on the east side of the beams not be in the eye line of the worshippers. The wall mounted units will be white to match the wall colour. Existing wiring runs are used for most of the work (d) the front two heaters are directed not towards the rood screen but at right angles to it facing towards the centre of the nave so will not affect the rood screen (e) this type of heating system is used across the diocese with no complaints and (f) other systems were considered, namely a wet central heating system which would require oil firing as there is no gas supply and also a considerable amount of work fitting piping and radiators impacting on the aesthetic and reducing available space in an already small church. This was discounted on cost and environmental impact and night storage heaters which similarly impact on space and aesthetic as they have to be installed at floor level – again reducing space. Leaving them on continuously would increase cost significantly and also emissions.”

THE LAW

39. The principal authority in this area of ecclesiastical law is the well-known case of *In Re St Alkmund, Duffield* [2013] Fam 158 and the Court of Arches in *In re St John the Baptist, Peshurst* [2015] WLR (D) 115, reaffirmed the approach it set out in *Duffield* in performing the necessary balancing exercise when determining petitions affecting listed buildings attracting the ecclesiastical exemption. It is this:
- (1) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historical interest?
 - (2) If the answer to (1) is “no”, then the presumption is to be in favour of the *status quo* but it can be rebutted more or less easily depending upon the nature of the proposals.
 - (3) If the answer to the first question is “yes” then it is necessary to ask how serious the harm would be;
 - (4) Then, it is necessary to assess how clear and convincing is the justification for the proposals;
 - (5) Generally, the greater the harm, the greater the benefit will need to be to demonstrated to justify the proposals and, importantly, in the case of a building that is listed grade 1 or II*, if serious harm would result then the justification would need to be exceptional.
40. *Duffield* has been refined by further authority to suggest that even if the need has been justified, the court should ask itself whether the works proposed might be modified to answer substantially the question of need without causing the degree of harm found to be present.

CONCLUSIONS AND DECISIONS

41. I judged that the case could be determined upon the papers because it was expedient so to do having regard to the Overriding Objective, the fact that the Petitioners did not want delay and because there were no Parties Opponent; the consultees wishing me to take their views into account rather than becoming Parties Opponent.
42. The first question I am required to consider relates to the issue of harm.

HARM

The Pew Benches

43. The building is a Grade II* listed church. The Statement of Significance is rather thin but the Petitioners have augmented it with photographs and I am familiar with the church albeit I have not visited it since I became chancellor. I have also reminded myself of its features in various guides. It is a relatively small interior with a single aisle. At present this has a series of late nineteenth century pews. From the evidence they appear to be pleasant examples of their type and, I am told by the VS, were introduced by H. J. Green in 1890.
44. The church, I am told, looks much as it did at the time of Green's restoration and all the consultees agree that the pews add charm, dignity and what the CBC calls a "pleasant rhythmic regularity." All of the consultees asked the Petitioners to consider why they needed to remove all of the pews and some expressed frustration with the lack of particularity and detail as to what justified this proposal in terms of need.
45. What is obvious is that because of the size of the church and its layout the removal of all of the pews will have a very striking effect and completely change the church's present character. Therefore, I have no doubt that the removal of the pews will have a harmful effect on the architectural significance of the church as a whole and a somewhat lower harmful effect on its historical significance. I assess the harm to the architectural significance of the church as a whole will be moderate to high and the harm to its historical significance will be moderate to low.
46. I cannot say what the view of the Petitioners and the PCC is on this topic other than that they say that the pews are of no significance which they seem to think is an agreed position. This is not what the consultees are saying, at least as I read it. It is agreed that the pews do not have any especial architectural significance, although the consultees all comment favourably about them. I have already dealt with the CBC's observations. SPAB referred to the pews, as an ensemble, having "a significant positive impact on the internal character of the church." HE commented that the removal of the pews would detract from the distinctive character of the interior. The VS in particular stressed the historical importance of the pews in the context of the Green restoration of 1890 and commented on them as "...not intrinsically of the finest quality, they are nonetheless dignified, carefully detailed furnishings, constructed in oak, and, as an ensemble, they contribute considerably to the great charm and character of the interior."

The Chairs

47. The consultees are united in their criticism on three basic grounds: (a) that the Petitioners have failed to take account of the CBC's advice about chairs in churches (b) that these chairs are not suitable for this church, particularly in view of its high listed

status and (c) and that, if there is a case for removing the pew benches at all, then they must be replaced by chairs of proper quality.

48. The Petitioners make a number of points in their response to the consultees. In their Statement of Significance and Need the only real comment they make on this aspect is that they are used in 300 churches. In their later response, they say that the chairs are also used in 2 Cathedrals, that much thought has been given to them with the assistance of specialist companies, that the fabric seating is durable and can be cleaned and that aesthetically the Petitioners (when looking at photographs of these chairs in other churches) thought that they enhanced the space and airiness rather than impacting the “general sense of repose and dignity.”
49. When faced with petitions for the use of most types of chair, I am often told that they are in use in a certain number of churches and cathedrals. This information usually plays little part in my decision. I assume, of course, that unless a chair design is bespoke or there is some other unique feature about it, its type will be used in a number of churches. There are over 16,000 Church of England churches in this country and 42 mainland cathedrals. They vary in age, shape, size and design. Some are unlisted but many (particularly in this diocese) have listed status of Grade I (exceptional interest), II* (particularly important, of more than special interest) and II (special interest).
50. This church was listed Grade II* on April 16, 1955 and the listing entry notes the pews as “seating 1890”. I am concerned in judging this petition not with other churches or cathedrals but with *this* church and its space and size. The impact that reordering makes on a church varies greatly with its size and the available space. Seating in cathedrals for instance is an entirely different matter to that in a small church. Of the 300 churches in which this seating is used, I know nothing about whether any of them have a high listed status, nor what difference the seating will make to how those churches appear.
51. In the case of this church, it is obvious that the removal of all of the pews will have a marked effect on the appearance of this small and relatively narrow building. The pews have been in the church for well over a century. It is equally obvious that the impact of the chairs selected to replace them will also have a considerable impact on how the church looks. Whereas I have taken into account what the Petitioners say, looking at the question of whether harm will be caused, I judge that the use of these particular chairs in this church will harm the architectural and historical significance of the church as a whole and that the harm will be relatively high. I agree with the reservations of the consultees on this point. The removal of all of the pews and their replacement by the chairs proposed will alter the character of the church deleteriously to a considerable degree.

Heating

52. I shall leave the question of heating until I have made my other decisions for obvious reasons.

NEED

53. The other principal *Duffield* question addresses the issue of need. How clear and convincing is the need for the proposals? I am required to judge this adopting the principle that the greater the degree of harm the proposals will cause, the greater will be the degree of benefit required to be demonstrated to justify the harm. Where the

building, as here, is Grade II* listed then, if serious harm would be caused, the need would have to be exceptional.

54. It is for the Petitioners to establish need. The original Statement of Need was very thin (as commented upon by the consultees), but the Petitioners have expanded upon it in further responses.

Removal of all of the Pew Benches

55. The principal need identified by the Petitioners is that to grow the congregation and to serve the community the PCC needs to make better use of the space. A few examples were given of this: (a) to develop links with the school that presently only visits once a year (b) to make a space that can be used safely by all age groups and mobilities (c) the need for a different use of space for less formal services (d) the need to allow space to move the table to the front of the Rood Screen and space for musicians to enhance worship or give concerts to raise funds and (e) the need to encourage other groups to use the church instead of the village hall.
56. The consultees criticised the lack of particularity of these needs and questioned why even those needs necessarily required the removal of all the pews.
57. The Petitioners expanded the information about needs in their final response by giving some additional detail on flexible worship, giving examples of the problems of involving the nearby school, including perhaps using the church for parents after they dropped off their children, by mentioning the fact that a prayer group has to meet at the vicarage rather than the church and by suggesting safety concerns about particularly the coffee mornings.
58. Following the consultees' observations which were all critical of the present proposals to a greater or lesser degree, I offered the Petitioners an option of taking these proposals back, with a substantial adjournment if necessary to re-evaluate the proposals in light of the consultees' observations. The Petitioners chose not to take that course. I appreciate that when people have decided that a particular option, in this case the removal of all of the pews, is the one that they want approved then it can become difficult to think of alternatives. We have all experienced that feeling from time to time.
59. I find that the removal of the pews will cause harm to the significance of the church as previously described. That is my finding. I make clear that although I consider the harm, looked at as a whole, is high I do not consider that it is in the category of such seriousness as to demand that exceptional need should be demonstrated. The need, nevertheless, must be justified in light of a high degree of harm to the significance of this church. When I examine the need, I find that it is being expressed in rather vague aspirational ways not always addressing the question of whether *some* pews need to be removed rather than *all* of them and whether if a number of the pews are retained in the body of the church it would be necessary to move them around much at all.
60. At the moment, I accept that the attendance figures are low. I am told that the introduction of informal services would encourage more people to come to church. I am not sure that the Petitioners' statistics bear out that optimism although they would benefit from clarification. I am told that services are held fortnightly in this church. One service is Holy Communion and the other one is an informal service. The numbers given to me are an average of 24 people attending for Holy Communion and an average of 15 attending the informal service. I am not told whether the 15 attending the informal service include those who also attend Holy Communion. Statistically it

would suggest that Holy Communion is a much better attended service than the informal one. More detail is necessary to comprehend the layout of an informal service with a sensible projection of how many people are expected to attend. That leads to the question of whether this leads to the necessity for removal of all the pews or even a substantial number of them. It may help the PCC to have some professional advice on how the church could be configured for these services without losing all, or the majority, of these pews.

61. I have seen nothing from the school as to how it would wish to use the church, if indeed it would. I am told in the Statement of Need that the school in fact only visits once a year, although that seems perhaps to be wrong given what is said in the additional comments which suggests that it is termly. It would help to know what the school says about its proposed use of the church and then to examine how the church could be configured to provide for that. It would be helpful to know how many children are likely to attend and how many times a year. As far as parents are concerned, I have seen no evidence of consultation with parents at the school as to whether there is any demand (and if so how much) for the “drop off” facility. Is this proposed to be available every school day or on more limited occasions? How many parents will this involve? Will they be provided with refreshment? These sort of questions based on consultation need to be asked. Otherwise, it remains simply an aspiration. The same questions apply to the secondary school.
62. I do not know how large the prayer group is that wishes to use the church or precisely what is meant by “several” more people who would join it if it could be held at St. John’s. Again, given that some temporary chairs could presumably be made available for seating on an *ad hoc* basis, how many pews would need to be removed for the prayer group?
63. The church hosts a once-monthly coffee-morning. There is a justified expectation that this could attract larger numbers if there was a greater space. This seems to me to be a reasonable assumption based on the Petitioners’ experience of the event to date and I accept it. So, that is a need which I can take into account. Concerns were expressed by the Petitioners that taking coffee to the eastward facing pews created a safety concern. I am not quite sure why some of the pews at the west end could not be turned round placed longwise (or both) for the coffee morning and I note that this concern does not appear to have been voiced in the consultation with the congregation. Indeed, the only observation that I read was by someone preferring the pews from the point of view of stability but, I accept, not in the context of coffee mornings. Again, some professional assistance with configuration to accommodate the coffee mornings would be useful.
64. The hope that a well-lit and warm church absent its pews might attract members of the wider community to the church (as opposed to the village’s community facilities) may be justified but there is no evidence of it. I do not know whether the PCC has consulted with the wider local community about it. The highest that the Petitioners can put community use is this: “...some of our many community groups *may* [my italics] find that the newly refurbished church is a much more congenial space to meet for young and old alike.” Again, it is not clear to me what use is envisaged and why this would necessitate removal of all the pews.
65. I agree with the Petitioners that the use of music either in the form of a concert or as a supplement to worship would be a feasible project although I do not know whether it is at this stage a hope or whether the proposed musicians have been identified. I do not, however, understand why that, or the movement of the altar, necessitates the removal of all of the pew benches.

66. In my judgment the Petitioners have identified features that may justify the removal of a certain number of pews provided the need is better evidenced with particularity and specificity. The present needs identified in general terms do not justify the removal of all of the pews. If the Petitioners apply in the future for removal of a number of pews it would help them to have conducted a proper consultation with the school and community to identify what the real prospect is for the hopes they have (e.g. greater use by the school(s), the community etc). It would also be helpful to know in respect of written consultations with the existing congregation how many people responded and the number making observations that did not agree with any aspect of the proposals. Furthermore, if the engagement hoped for by the Petitioners is at the moment possible but not certain, it would, in any event, be more sensible to move in stages rather than make a radical change at the outset. This appears to have been their approach in their works hitherto.
67. One additional matter raised by one of the consultees was visitors to the church. The Petitioners should deal with this please in any future petition. Approximately how many visitors come to the church monthly or annually and how much revenue does this raise?
68. Balancing, however, the level of harm that will in my view be caused to this Grade II* listed church by the removal of all of the pews and the demonstrable need as put forward by the Petitioners for that step to be taken, I am not able to grant the petition in respect of removal of all the pews.

The Chairs

69. Although in their final response the Petitioners make some observations about the aesthetic value of the chairs they propose, the real reason they wish to replace the pews with these particular chairs is the ability to move them and stack them and, as a subsidiary point, the cost. The ability to stack is required because of the age of the congregation.
70. Because of my decision with regard to the removal of all the pews, the issue of the type of chair does not arise at this point but in my judgment neither these chairs nor the alternatives with some wood are suitable as a replacement for the pews. Apart from being contrary to the advice of the CBC, the chairs are of a type that would not be suitable for a Grade II* listed church of these proportions where the seating is bound to be a dominant feature.
71. I understand that moving furniture in a church can be difficult particularly with an older congregation. SPAB suggested that the PCC seek advice on whether the pews can be made easier to move.
72. This church is a building of particular importance. There will always be a tension between that particular importance of this church and its needs (including those relating to mission and financial viability). These tensions have to be resolved in the context of the building's size and space (which may place constraints on what can be done realistically within the space) and without damaging its significance unless justified.
73. I concur with the approach set out by the VS. The Petitioners' general aims are praiseworthy. Having identified more precisely the exact space that is required with evidence, the real question then is how specifically to achieve the aims, on the basis of a clear understanding of the church's significance and sensitivity to change and how the building might be adapted to achieve them.

The Proposals in respect of Heating

74. Given my decision to refuse a faculty to remove all of the pews, the Petitioners may wish to re-think their proposals in respect of the heating. I will keep the faculty application open on this aspect at the moment if the Petitioners wish and I would permit them to amend the petition to deal purely with the heating. I give them 28 days from the date of this judgment to decide if they wish to do this. If they do, I will allow them a further period of time to reconsider and if necessary to amend the proposals relating to the heating.
75. I agree that it is helpful in attracting people to church if there is sufficient warmth and decent lighting. The Petitioners have dealt with lighting but they say, and I accept, that during certain periods of the year the church is insufficiently warm. Under-pew heating it is said does not warm the west end of the church sufficiently and I also understand that it has certain drawbacks: the time it takes to warm up and the fact that it is causing splitting on certain pew benches, although the PCC should confirm that it is the under-pew heating that is causing the problem.
76. SPAB has concerns that the infrared heating proposed has caused damage in some East Anglian churches. If that is correct, then the Petitioners' final response that this type of infrared heating has not caused any problems in the diocese may not be correct. In any event, the Petitioners should commission a report from an independent expert or specialist as to whether this form of infrared heating could pose any risk to the fabric of the church and, if so, what risk and in what circumstances. The Petitioners draw attention to the under-pew heating itself causing problems to the fabric in this church and that is obviously very undesirable. The independent expert should examine that aspect as well. The expert would need to see both what the consultees (particularly SPAB) and the Petitioners say in their responses.
77. SPAB makes the point that near (shortwave) infrared causes a more intense heat. In fact, some people find the heat uncomfortable. I appreciate that the technology of heating evolves at a fast pace in this era. SPAB makes the suggestion that far infrared may be a better heating solution and more friendly to the fabric of the church. It is a suggestion that should at least be investigated.
78. SPAB and other consultees comment on what is described as the utilitarian nature of the units and their overhead placement. The photograph I have been shown in the Supporting Documents and Images of the units on the beams does look very discordant; the eye being drawn immediately to them, although I take the point that they face east which reduces their visual impact on the congregation (although not for visitors looking round the church). The church, nevertheless, clearly has to be heated properly during the cold months and, if the Petitioners wish to pursue the faculty in respect of the heating alone at this stage on the basis of the near infrared heaters then thought will need to be given to the points made by the consultees.
79. Accordingly, the judgment of the court is:
- a. The petition for a faculty to remove all of the pews is refused for the reasons given;
 - b. In light of that decision, the application to introduce the specified chairs is refused and, in any event, they are not found to be suitable for this particular church for the reasons given;
 - c. The application for the introduction of the near (shortwave) infrared is adjourned for the Petitioners to decide whether they would wish to proceed with this part of the application by itself subject to:

- i. The Petitioners informing the court within 28 days that they wish to continue with the petition in respect of the heating; and
- ii. If so, the Petitioners agreeing with the court a time period for them to look again at the heating proposals and, within that period, uploading an independent expert report to deal with whether the proposed heating units may cause damage to the fabric of the church and whether far infrared heating would be both less intrusive and less likely to affect the building's fabric – the expert to be informed both of the consultees' concerns and the Petitioners' response.

80. The Petitioners will find this decision disappointing but I have pointed out in the judgment how an application to achieve more space might be improved upon. I make no orders as to costs.
