

In the Consistory Court of the Diocese of Norwich NR164/15

Re St Botolph, Stow Bedon

## Judgment

1. Stow Bedon church is Grade II\* listed. It is a simple and not insubstantial parish church consisting of a chancel and nave. It has 12<sup>th</sup> century origins and was remodelled in the 14<sup>th</sup>, 15<sup>th</sup> and 19<sup>th</sup> centuries. It is part of a seven-church benefice and hosts services once every six weeks with an average congregation of 38. As part of a parish plan to encourage wider use of the church for both missional and wider community purposes the Rector, Churchwarden and PCC Treasurer of this parish have petitioned for a faculty permitting the internal re-ordering of the nave. The re-ordering includes the removal of all of the nave pews and their replacement with chairs, the installation of a new kitchenette and chair store at the west end of the building and the relocation of the font. It is also proposed that the decaying and dangerous wooden pew platforms should be replaced with a simple engineered timber floor. The pews affected by the proposals are part of a largely unchanged set which dates from the 1853 re-ordering of the church.
2. Initially, the proposed works were part of a wider scheme including various structural repairs to the church and a modest re-ordering of the chancel. That wider scheme is Phase One of a two-phase scheme in the development of the building. The intention is that once the Phase One work is completed the Phase Two works will be pursued. Phase Two consists, essentially, in the installation a disabled toilet in the north west corner which is to be accessed from the west lobby together with certain adjustments consequential upon that installation.
3. As a result of the consultation undertaken by the parish it became clear that whereas the majority of the proposed Phase One works were unlikely to raise any objection, the proposed changes to the nave were more contentious. Funding which covered the cost of the uncontentious works had been obtained and in order to avoid delay the parish petitioned for a faculty for the uncontentious works by way of petition number 163/15. A faculty passed the seal in relation to those works on 20 October 2015. It is the remainder of the Phase One works, namely the nave re-ordering, with which I am concerned here.

### ***Advice and consultation – The Diocesan Advisory Committee***

4. The DAC issued a certificate on 14 May 2015 recommending the works and expressing the opinion that the proposed works were likely to affect the character of the church as a building of special architectural or historic interest.

### ***Public Notices***

5. Public Notices were displayed between 28 June and 29 July 2015. When I received the papers I was concerned that those Public Notices referred only to “[i]nternal re-ordering of the nave...with accompanying electrical improvements throughout, and the installation of a new kitchenette and chair store”. On the basis that that description did not give members of the public adequate notice of the parish’s intention to remove all nave pews and replace them with chairs I directed that amended Public Notices should be re-displayed for a further 28-day period. That direction was complied with in November 2015. Whereas no response to any of these notices was received at the Registry, a letter was sent to the DAC Secretary dated 11 September 2015 from Mr Kenneth Stone and Mrs Christine Stone. Mr and Mrs Stone live in the parish of Stow Bedon and attended the public consultation meeting about these proposals held by the PCC in February 2015. 22 parishioners attended that meeting. In a vote taken at that meeting three people wanted to remove all of the pews, three favoured retention of some pews and eleven wanted all of the pews retained.
6. In their letter Mr and Mrs Stone express concern that the proposed changes will both spoil the church as a place of worship and fail to make it suitable for additional community uses given the lack of a car park and toilet. Although Mr and Mrs Stone’s letter was received by the DAC outside of the statutory consultation period I have taken full account of their views in determining this petition. It is relevant to note that, as will become apparent below, their concerns are reflected in the responses received from some of the amenity societies.

### ***The Amenity Societies***

7. Historic England, the Society for the Protection of Ancient Buildings and the Victorian Society have all been consulted about the proposed works. Each body has raised objections to the proposals as set out below but none of them has chosen to become a formal party opponent in this case. Instead, they ask that I take their representations into account in determining this petition. I do so.
8. Historic England expresses broad support for the parish’s aims of creating flexible space and new facilities in the nave to allow a greater range of uses of the building. It has no objection to the proposed kitchenette, chair store or relocation of the font. Nevertheless, the fact

that the pews are part of the major rebuilding, repair and re-ordering of the building in the 1850s means that they are historically significant. Historic England is of the view that some of the pews should be retained at the east end of the nave whilst removing others to create a flexible space at the west end of the building. The view is expressed that any replacement chairs should be of high quality and timber framed with upholstery in muted tones. The parish are proposing using the Casala Curvy chair which is metal framed with a dark wood veneer seat and back. Historic England also expresses concern about the proposed timber floor. A more traditional finish such as pavement tiles is suggested.

9. The Society for the Protection of Ancient Buildings defers to the Victorian Society in terms of the merit of the nave pews but states that the complete removal of those pews would fundamentally change the character of the building. SPAB suggests that a more appropriate alternative would be to retain four or five pews on either side of the nave with a flexible space being created by the removal of the remainder. The retained pews could be made moveable allowing for additional flexibility when needed.
10. The Victorian Society also has no objection to the kitchenette or to the relocation of the font. It expresses the view that the removal of the nave pews would result in substantial harm to the interior of the building. It says that the pews "are a major part of a little-altered relatively early re-ordering scheme that is cohesive and interesting. Stripped of the pews the nave would be a rather bleak and characterless space." Scepticism is expressed about the potential for regular community use of the church given its relatively isolated location between the two halves of the village and the lack of car parking and toilet facilities. Once again, the clearing of an area of pews from the west end of the nave is suggested as an alternative method of achieving the parish's aims.

### ***The Church Buildings Council***

11. The advice of the Church Buildings Council has also been sought in this case. Its views are set out in its letter of 17 September 2015 written after a site visit in July. The CBC recognizes that the pews in Stow Bedon church are of modest quality. This accords with the advice given by the CBC when the parish sought (and gained) permission for the removal of a small number of the pews from the south west corner of the church in 2008 to create a space for gathering after services. The CBC is, nevertheless, of the view that the petition to remove all of the pews is quite different in nature from the 2008 changes. It believes that the removal of the whole set of pews would fundamentally alter the character of the building as a whole, stating that the interior is visually anchored by its pews. It is said that the proposed changes risk moving the building towards the appearance of a church hall rather than a place

of worship and that this effect is exacerbated by the proposed engineered timber flooring which it says is wholly inappropriate to the space. Despite the expressed concerns the CBC accepts that both complete removal of the pews and a timber floor could be considered, but that the floor would need to be sensitively detailed and that the needs identified by the parish so far are inadequate to justify the significant changes proposed.

### ***The church building***

12. In light of the concern expressed by the various bodies and persons about the proposed changes to the nave of this church building I visited it on 28 December 2015. The purpose of the visit was to understand the setting and facilities of the church (which are said to impact upon the feasibility of additional community and other uses) and to assess the impact of the proposed changes on the church's significance. The parish are to be praised for keeping the church open every day and access was straightforward. In considering the significance of the church I have also had regard to the listing entry for the church in the National Heritage List for England.

### ***The Duffield Guidelines***

13. In determining a petition of this nature I must apply the guidelines set down by the Court of Arches in the decision of *Re St Alkmund, Duffield* [2013] Fam 158. Those guidelines take the form of the following questions:

“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 *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." [para 87 of the judgment].

### ***Harm***

14. Whereas the nave pews themselves appear to be of no particular quality, it is clear to me that they form a substantial part of the major and substantially unchanged re-ordering scheme from 1853. The simplicity of the nave and the church building as a whole is such that the replacement of all of the nave pews with chairs and the change in flooring would undoubtedly have a considerable visual impact on the building. That said, I am enjoined to consider whether the proposed changes would result in harm to the significance of the church not in the abstract, but rather *as a building of special architectural or historic interest*. For those purposes I have regard to the NHLE listing entry which can be taken to be a good summary of the reasons why this church building was listed as of special significance. That entry deals almost entirely with the building's stonework and windows. The only part of the entry which makes reference to the furniture of the nave is half a line which states: "Pews 1853 and other fittings C19".
15. I am satisfied that the proposed changes would result in harm to the significance of the building. The 1853 re-ordering and repair scheme represents a significant development in the building's history and these proposed changes would have a substantial and irreversible impact on that scheme. That said, I recognize that the aesthetic element of the harm caused by the removal of the pews would be ameliorated to some degree by the retention of the pew ends as dado paneling along the walls. That retention would lessen the visual impact of the pews' removal and the risk of giving the building the appearance of a public hall rather than a place of worship. That dark timber is echoed in the stained timber ceiling and the dado paneling would provide a means of fixing the dark wood as part of the natural palette of colours in the church. The listing entry also suggests that the furniture from the 1853 re-ordering scheme represents only a small part of the significance of the building. The harm caused would be significant but not very serious.

### ***Justification***

16. Given the fact that these proposals will cause harm to the significance of this building and the strong presumption against the making of such changes, I must consider the justifications offered for the proposals. I must ask myself whether those justifications are clear and convincing and outweigh the harm which would be caused.

17. The justifications offered by the petitioners are set out in sections 4 and 5 of their Statement of Need and in further written representations sent to the Registry on 11 January 2016 entitled 'Reasons for the wooden flooring'. Some 240 souls reside in the village of Stow Bedon and further family sized houses are being built. Population growth has meant that for the first time in many years there are more than 40 young people resident in the village. The village has no amenities; no play area, no shop, no school, no hall, no public house and no transport. It is the PCC's desire to use the church building to better serve its community by providing a public space for its use. The PCC also wishes to broaden the number of church activities which can be held in the church. The proposed uses listed are: Parish Council meetings, Heritage Group meetings, Fete Committee meetings, combined PCC meetings for the seven churches of the benefice, Messy Church services, concerts, coffee mornings and art exhibitions.

### *The pews*

18. The petitioners point out that the existing pew platforms are decayed and unsafe. This means that the pews will need to be removed to enable the repair of the platforms. The petitioners argue that this means that now is the appropriate time to look at whether the pews should be removed. The petitioners have considered the alternatives of retaining most of the pews or retaining some pews and supplementing with chairs, but have formed the view that such alternatives would provide too limited a space for community use, especially given the proposed Phase Two works which include the installation of a disabled toilet at the north west side of the nave.

19. Having visited the church I could see where a relatively modest area had been cleared at the south west corner of the church by the removal of a small number of pews in 2008. The suggestion of Historic England, SPAB and the Victorian Society is that the needs identified by the parish can be met by retaining the front four or five pews on either side of the nave and removing the remainder. The advice of the CBC is also that the additional uses which the parish have identified do not warrant a complete depewing. Having examined the church it is clear that if the parish removed all but the front five rows of pews in the nave they would create a flexible area for the kitchenette, chair store and other uses in excess of eight metres by six metres. A greater area would be created if only four rows of pews were retained. A small part of that area is taken up with the existing west lobby. Should the Phase Two works take place a further area would be taken up with the toilet cubicle which it is intended to place on the north side of the aisle.

20. I am not asked to decide whether the scheme proposed by the amenity societies is the right scheme for this church. I am asked to decide whether a faculty should be granted for the scheme proposed by the

petitioners. Nevertheless, the existence of an alternative scheme is relevant. As I said recently in *Re St Peter Mancroft, Norwich* (15 April 2015):

“I am, of course, not enjoined to decide whether the petitioners should be pursuing any of the alternative proposals which have been mooted; rather I am asked to consider whether the merits of *this* petition mean that a faculty should be granted. Nevertheless, one factor in deciding whether to grant a faculty is the question of whether alternative, and potentially less harmful, options have properly been considered by the petitioners.”

As mentioned above, the petitioners have considered the alternative of retaining some of the nave pews and have rejected that option. Bearing that in mind, I must balance the harm caused by the proposed changes against the public benefit resulting from those changes and determine whether that benefit outweighs the harm.

21. I pause to note that I agree with the views of the CBC that the need to repair the failing pew platforms does not provide support for the decision to remove the pews permanently. Whereas, at a pragmatic level, it is clearly sensible to consider questions about the future of the pews at the time of removing them to repair the platforms, the need to repair the platforms in and of itself does not strengthen the argument for the pews' disposal.
22. Does the public benefit sought (from both community and church uses) outweigh the harm to the significance of the building? I have considered the list of uses to which the petitioners wish to put the building. Wider use of church buildings is endorsed and encouraged by the church at both diocesan and national level and is supported by each of the amenity societies consulted. I have considered long and hard whether the needs identified justify the proposed changes and I have, with some reluctance, come to the view that they do not. Whereas the wider, creative use of the building pursued by the parish would undoubtedly produce a real public benefit in this community, I cannot escape the conclusion that those aims could readily be met by the removal of all but the front four or five rows of pews. Such a change would have a much more limited impact on the significance of the building. The flexible area created would be large enough to accommodate the meetings and other uses proposed by the petitioners and the remaining pews could, if desired, be made moveable to allow for an even larger space should the need occasionally arise. The only use which might not be said to be accommodated by this more limited change would be the stated need for those attending fundraising concerts (anticipated to be 60+ in number) to be “able to sit in comfort on chairs rather than narrow pews”. Even if the comfort of the pews was not able to be improved adequately by the use of cushions or padded runners, if the remaining pews were moveable, it would

nevertheless be possible at such occasional events to move the pews back or to the sides of the building and use the chairs to provide seating.

23. The south pews can readily accommodate at least six people and the north pews (being a little longer) at least seven. Retaining four or five rows of pews would provide ample seating for the current congregation and chairs could be used to supplement any occasional services when congregations may be larger.
24. The other areas of concern are the type of chair proposed and the flooring chosen by the parish.

#### *The chairs*

25. Historic England have suggested that the type of chair used should be "high quality timber framed chairs with upholstery in muted tones". The CBC have indicated that the choice of chairs would be important to the success of any scheme but neither the CBC nor the other amenity societies have expressed concerns about the type of chair chosen. The chair chosen by the parish is a light metal-framed dark wood chair which stacks in set of between 32 and 45. It has been used in other Anglican churches including the Grade I listed church of All Saints in Kingston-upon-Thames. The chair has been considered and recommended by the Diocesan Advisory Committee. I am satisfied that the chair chosen is a satisfactory choice. Its dark timber seat and back, when coupled with the dado paneling retained from the pews and the dark timber ceiling, would serve to alleviate the risk of the nave appearing more like a public hall than a place of worship. This is particularly so when a number of pews are to be retained at the east end of the nave. The need to ensure that the space created is truly flexible means that the chair chosen must be stackable in numbers which are sufficient to enable their easy storage at the west end of the nave. The Casala Curvy chair satisfies this requirement.

#### *The flooring*

26. Finally, I must consider the proposed flooring. The existing floor is largely concrete with a small area of pavement tiles at the south west corner of the church and the failing dark timber pew platforms beneath the pews. The petitioners are seeking permission to install a simple dark oak plank engineered timber floor. Historic England states that "[s]uspended timber floors are not found in medieval churches and their appearance, akin to that of some non-conformist meeting houses and public halls, can detract from the unifying quality of the traditional palette of materials found in ancient buildings...". The CBC echoes those concerns stating that it "would remain opposed to an engineered floor, as wholly inappropriate to the space. Stone or tile floor would be preferred, though a more sensitively detailed timber floor could



potentially be considered." Those concerns are expressed in the context of the removal of all of the nave pews which would leave the whole expanse of flooring far more on display than at present. The DAC have considered and approved the proposed flooring.

27. The petitioners maintain that they have considered pammments as an alternative flooring but believe that the dark oak of the proposed floor will tie in with the dark woodwork of the nave ceiling and retained dado paneling and that a stone or tile finish would be inappropriate to the intended use of the nave as a dual functioning space which can be used by the wider community. The reasons given for this are practical, aesthetic and financial. I have reservations about the argument that a wooden floor is easier to keep clean than a stone or tiled floor, although I recognize that a wooden floor can be perceived by many as warmer and more comfortable than a stone floor especially when children's groups (such as the proposed Messy Church) will be using the building. I recognize the force of the petitioners' argument that the suspended wooden floor would have the very real advantage of improving accessibility by eliminating the step down into the nave upon entering the church and the step up into the chancel. I am mindful of the parish's obligations under the Equality Act 2010 to make reasonable adjustments to improve access to their building. This change would be an undoubted improvement to the unstable timber ramp which is currently used at the west end of the church to assist with entry. I am also told that the ventilation afforded by the suspended floor would assist with damp issues in the church. The petitioners also argue that the dark timber flooring will help to secure the Victorian aesthetic within the church. The ceiling and dado paneling are both of dark timber and it is said that the proposed floor would reflect that palette, whereas a lighter stone or tile floor would undermine it. I also note that at stone or tile floor would be between £7 000 and £10 000 more expensive than the timber floor, such sums being significant (but not determinative) for a small parish such as Stow Bedon.

28. I am satisfied that the change in flooring would result in some limited harm to the significance of this mediaeval building. I take account of the fact that that change is from an existing flooring of no merit, being largely made up of plain concrete and failing timber pew platforms. Nevertheless, in this instance I am satisfied that the justification provided by the petitioners in terms of the public benefit to be achieved outweighs the harm. I have some reservations about the plain nature of the boarding proposed and would encourage the petitioners, whilst reconsidering their proposals in light of my decision about the nave pews, to consider a more carefully detailed timber floor, but I would not, on balance, refuse permission for the proposed floor.

29. It will be apparent from the above that I have decided that a faculty should not issue in this case. The parish may wish to pursue an amended scheme in line with the observations above. In case they do, I

direct that the proceedings shall be stayed for six months and give the petitioners permission to file an amended petition within that time. If after six months they have chosen not to do so then the petition shall stand dismissed.

30. I recognize that the parish may well feel discouraged by this decision and I want to emphasize that this judgment does not (and cannot) mean that there can never be circumstances in which permission would be granted for the removal of all of the nave pews. It is simply that the circumstances and needs of the parish relied upon at present do not justify the changes sought because those needs can be met with a less harmful scheme. If, in future, the parish's needs and circumstances change then the scheme could be reconsidered in light of those changes.

A handwritten signature in black ink, appearing to read 'R. Arlow', with a stylized flourish at the end.

Ruth Arlow  
Chancellor of the Diocese of Norwich

18 January 2016