

**IN THE CONSISTORY COURT**  
**of the DIOCESE OF LIVERPOOL**

St Thomas the Martyr, Upholland

**JUDGMENT (3)**

**Introduction**

1. The court is concerned with a petition for a confirmatory faculty in relation to several unauthorised works which were carried out by the parish between 2021 and 2023 to the grade 1 listed Church building in Up Holland, Lancashire. This is the third judgment provided in the context of internal reordering works, covering four petitions in all.

2. Because the faculty was not recommended by the DAC, and a number of critical responses were received from the amenity societies, who have nevertheless chosen not to become party opponents, I convened a consistory court in Liverpool, and on 7<sup>th</sup> May 2024 a short hearing took place when the parties had an opportunity to explain their respective positions and to present evidence in relation to the way forward. The Archdeacon for Knowsley and Sefton, the Venerable Pete Spiers is in fact the petitioner for pastoral reasons which will become clear. It was particularly important, at this hearing, to understand the circumstances in which the parish had undertaken those works when they had no permission to do so, and in particular whether this was an inadvertent or deliberate flouting of ecclesiastical law requirements.

**Background**

3. I shall refer to the PCC, and the incumbent, who were previously the petitioners in relation to petitions 1,2 and 3, as the *parish*, and the Archdeacon as the *petitioner* for ease of understanding.

4. I provided judgment 1 following my first visit to this beautiful and impressive church building in 2019. A faculty had been applied for to undertake several changes to the chancel,

including the repositioning of screens which separated the congregation from the clergy and provided some obstruction of view to the sanctuary, and the removal of a redundant row of choir stalls, preserving the children's stalls. Although the amenity societies urged caution against any drastic changes, there was no objection in principle. My determination was made on the papers, and a faculty issued, authorising the following works:

"The reordering of the Chancel of the parish church, these works to include the removal of the screens on either side of the Chancel steps and their relocation to the East wall of the Chancel on either side of the riddle posts, these posts to be moved forward slightly to accommodate them if necessary; the removal of the front-most choir stalls from either side of the Chancel and their relocation to the front of the remaining stalls and the removal of redundant central heating pipes running under the children's choir stalls; the removal of the upper book rests from the choir frontals, the relocation of the carvings of the four Evangelists to the equivalent positions on the lower book rests and the relocation of the lighting to the shelf behind the choir stalls; the use of the wood from the redundant stalls to build a new movable altar to be situated between the choir stalls in the centre of the Chancel; the relocation of the High Altar back to its original position between the riddle posts and the reinstatement of the original altar rail, in accordance with Statement of Need, Quotation from OC Joiner/, Quotation from Rainford Plumbing & Heating Ltd dated 23rd January 2019 and comparative plans of the church by Lawrenson Associates dated May 2019 - displayed at the parish church and lodged in the Diocesan Registry."

5. Whilst I recall from my first visit (now over five years ago) some informal discussion with the incumbent and the churchwarden about grander plans which the parish had in relation to the removal of several pews and the creation of a community space at the rear of the nave with the provision of refreshments, café, etc., at that stage there was no formal application for faculty permission for my consideration. When it emerged that in fact there had been ongoing engagement with the DAC and indeed separate faculties had been applied for in relation to pew reversal in the north and south aisles, and pew removal at the rear of the central aisle as well as ancillary works (brought to my attention by the registrar) in an advisory note I encouraged an holistic approach. This is touched upon in judgment 2 where I made the following remarks:

"3.....papers were forwarded to me by the Registry in relation to the two principal petitions with which this judgment deals, (petitions 2 and 3), the first (petition 2) seeking the reversal of every alternative pew in the north and south side aisles to form five booths on each side separated by tables, and the second, (petition 3) a more substantial petition seeking the removal of the last six rows of pews on either side of the central aisle and the repositioning of the rear pews and panels, thus creating open space for meeting and fellowship..."

4. It was immediately apparent to both myself and the Registry on considering petitions 2 and 3 (already well progressed as faculty applications at the time of my earlier decision) that it would be inappropriate to deal with the various applications for what is fairly extensive internal re-ordering on a piecemeal basis. It was also apparent from preliminary engagement with the amenity societies that they were expressing significant concerns that the reordering had not been dealt with holistically. The point was properly made in correspondence, and confirmed in my earlier directions, that the impact from internal alteration to the historical character, heritage and architecture of such a splendid grade 1 listed building had to be considered in terms of the overall effect, which required a consolidation of the petitions. Were it otherwise, it would be open to any church to make numerous separate applications to avoid the prospect of objection been taken either by parishioners or those entrusted with heritage protection, to a large-scale project. Happily, the petitioner on these applications, and minister of the parish church, the Reverend Paul Lock, fully understood the need for an holistic consideration and I am quite satisfied that this piecemeal approach was not intended to be anything other than a practical way of dealing with the reordering whilst plans were developing and the church leaders were addressing the missionary aspects of the church."

6. In judgment 2, I proceeded to deal with the substance of the objections, and considered carefully the plans of the parish to create a community hub in the space which would be available by the removal of the pews. I approached the matter on the basis of the application of the Duffield criteria, considering the level of harm from the removal of Victorian pews, which was to be balanced by the very significant benefit for the parish and the community from what was proposed. I concluded by granting the faculties (that is 2 and 3):

“36. In the circumstances, I am prepared to grant the faculties which are sought in relation to both these petitions<sup>1</sup>. It will be a condition of the faculty issue that the petitioners provide evidence that the funds are in place before the commencement of any works, and that those works shall be completed within a period of six months.”

7. The registry then proceeded to draw up the necessary papers for the faculties to issue. It is here that matters started to unravel slightly. Although both petitions had been dealt with together, technically, two separate faculties were required, but only one appears to have been issued. It was set out as follows in the schedule:

“The reordering of the Chancel and Sanctuary of the parish church and the arrangement of pews in the side aisles to create booths, in accordance with Statement of Need dated 26 June 2019 with Details of Proposed Re-ordering and Photographs - displayed at the parish church and lodged in the Diocesan Registry.”

8. On receipt of the written judgment dated 12 April 2020, but seemingly not awaiting the confirmatory paperwork in the shape of the formal faculty, the parish proceeded to remove the central aisle pews, and to convert the North and South aisle pews into “booths” with tables. Of course without the issue of a formal faculty they only had the authority to do the latter, but the parish have consistently maintained that they were unaware of this requirement and that they believed my judgment was sufficient permission for them.

9. Although reference was made in that judgment to the community amenities which the parish wished to create, including a multi-use meeting space for community events, a café and a pop-up post office, it is clear, not least because no faculty had ever been sought for those items, that my judgement was not giving permission for any wider scope. The former Archdeacon had become involved (Archdeacon Jennifer McKenzie) in early 2019, and although her supportive role may have been mentioned to me on one of my visits to the church, I was unaware that she had in fact been acting as a representative of the parish in communication with Post Office Counters. She had in fact written the letter below in January 2019.

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<sup>1</sup> Present emphasis

The Venerable Jennifer McKenzie  
Archdeacon of Wigan & West Lancashire  
Telephone: 0151 705 2154  
Email: [jennifer.mckenzie@liverpool.anglican.org](mailto:jennifer.mckenzie@liverpool.anglican.org)

13<sup>th</sup> January 2019

To Whom It May Concern

I write to you regarding the desire of the Parish Church of St Thomas the Martyr to establish a Post Office within its building.

In my capacity as Archdeacon of Wigan and West Lancashire, and as a representative of the Bishop of Liverpool within the Liverpool Diocese, and with legal jurisdiction over my archdeaconry, I confirm that the Parish Church Council of St Thomas the Martyr are the Trustees of the Parish of Up Holland, and, by the guidelines set forth by Parliament, are legally allowed to negotiate for, plan and run the Post Office and coffee shop within the Church building, as long as it does so within the guidelines and following the rules and regulations of the Church of England.

I would also add that the Trustees are able to establish working relationships with organisations and business for the good running and effective work of the Church within the community.

Should you wish to confirm anything further with regards to the legal position of the PCC of the Church, please do not hesitate to contact me.

Yours faithfully,



The Venerable Jennifer McKenzie  
Archdeacon of Wigan & West Lancashire

10. It is agreed that the keywords in the Archdeacon's letter are "*as long as it does so within the guidelines and following the rules and regulations of the Church of England*". Knowing Archdeacon Jennifer McKenzie as well as I do, I have no doubt that this anticipated faculty approval, even if it was not spelt out in such specific terms. Unfortunately the parish did not read it that way, and as they moved forward with the creation of their community hub, once the pews had been removed on their understanding that they had permission to do this, in 2021 the post office was established in the annex on the south side of the church and the café began trading, with the creation of a counter at the rear of the nave, as well as a small shop selling gifts and cards. Since its inception, the café and the post office have both generated a significant income, are extremely popular, and are generally considered to be a success.

11. It is to be noted that until the recent intervention of the registrar, which was intended to be without prejudice to any determination on the present faculty petition, the original agreement between the post office and the PCC describes the "*basic business of the branch premises*" as a coffee shop. Whilst many churches are diversifying these days, and undertaking community activities, the fact remains, if it is possible to describe it as a "business", St Thomas the Martyr and the PCC were running a church building and a parish. I understand this has now been corrected, although I have not seen the new contract. The fact remains, however, that without a faculty the

agreement is technically unenforceable, and if this business arrangement is to continue, a faculty is essential.

12. There were two significant events in 2022. The first of these related to a further petition which was lodged by the parish for the removal of all remaining pews, to deal with some dry rot issues, and for the moving of the headstone of the last highwayman to be hanged in England. This petition has not been dealt with for reasons which will become apparent.<sup>2</sup> The second was a freedom of information request received in August 2022 by the secretary of the DAC, Mr Leggett, from a member of the conservation area advisory panel for West Lancashire, Mr Ellis, seemingly expressing concern at some of the changes which were taking place internally at St Thomas the Martyr. His letter expressed the request in these terms:

There have been many changes to the fabric of this building in recent years.

As part of the freedom of information act, I request –

1. A list of all Faculty applications related to the church and it's environs since Sept 2016 that were granted.
2. A list of all Faculty applications related to the church and its environs that were refused during this time.
3. A list of dates when inspection visits were made to check on works in progress and any summary notes relating to those works.
4. A list and dates of any Faculty applications from 2010 -2016.

13. As a result of the request, and doubtless because one of the most significant listed churches within the diocese was potentially attracting controversy from a heritage perspective, Archdeacon Pete Spiers visited the parish in November 2022. At this time, the incumbent Rev Paul Lock was unavailable because he was on long-term sick leave, but the Archdeacon had an opportunity to inspect the internal space, having familiarised himself with the history of faculty applications, and to discuss some of the features with the churchwarden then present, Mr Roughley. The Archdeacon's briefing note dealt with that inspection, and recorded that notwithstanding information provided by the parish in relation to the reordering of the North and South aisles, which involved the removal of some pews, those removed pews had not been relocated within the church at the specified sites promised. Further, the six rows of pews that were removed from the central aisles were no longer available. The explanation provided by Mr Roughley was that the North and South pews could not be retained because they were largely rotten and damaged when removed, (although the decorative carved pew ends could be salvaged and were being stored) and that the six rows of pews from the central aisle had been sold. Some of the wood which was not rotten was used for repairs within the belltower. The Archdeacon also noted the thriving community activities which were clearly taking place, including Beckett's Café and the post office, as well as the "temporary" fitments used for the latter. The Archdeacon was informed, when he questioned Mr Roughley about the faculty status of these changes, that none had been applied for, but the parish were under the impression that because the "*Chancellor and the DAC knew of the desire to have a café and a PO*" the faculty which they believe was provided

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<sup>2</sup> I have not seen this petition. I was unaware of it until it was referred to in the documents prepared for this hearing, and in particular in the briefing paper of the Archdeacon. It is clear that moving forward the parish would want to replace these pews with appropriate chairs in the entire nave.

for the removal of the pews also incorporated the introduction of the café furniture. He also observed in his briefing note that the tables which were being used in the new booths created by the pew reversal in the North and South aisles were not those which had originally been specified.<sup>3</sup>

14. In his note the Archdeacon also dealt with the history of faculty applications on the basis of DAC understanding. This included a reference to the relevant sections of my two previous judgments.

15. Following his visit, the parish provided a number of documents, which included the full post office agreement, and the constitution for the community hub. The DAC now became engaged and concern was expressed about what was considered to be a serious infringement of ecclesiastical law in the context of the faculty process, with numerous works undertaken and changes made without permission. The matter was brought to my attention by the Registry and I indicated that a formal process would have to be followed, whether this comprised a restoration order, or confirmatory faculty.

16. The Archdeacon considered his position as both a member of the DAC, and thus upholding faculty jurisdiction compliance, and a senior member of the clergy entrusted with the pastoral support of the parish. In the circumstances he stepped back from his DAC role, and became the petitioner for the faculty petition which has now been presented, seeking a confirmatory faculty for the works. In the schedule for petition 2023 – 083455 the works were set out as follows:

#### SCHEDULE OF WORKS OR PROPOSALS

To confirm the following works:

- a) The removal and disposal of 12 pews (and plinths), 6 each side, from the rear of the Nave and making good the floor with stone;
- b) The installation of 8 storage cupboards behind the rear pews;
- c) The construction of a Kitchen Served to the South/West wall of the Nave;
- d) The creation of a café area at the West end of the Nave with tables and chairs;
- e) The installation of a shop area and display units to the West wall;
- f) Entering into a lease/licence agreement with Post Office Ltd. (The lease or contract under which the post office is functioning is void, rendering the PCC personally liable.)
- g) The installation of a Post Office counter in the South extension/annexe;
- h) The erection of external signage advertising the Post Office and Café;
- i) The installation of tables to the side aisles which are quite different those in the original faculty petition.
- j) The felling of an oak tree

The furniture and fittings currently in place will be replaced and upgraded using materials and designs in keeping with a Grade I Listed building and Ancient Scheduled Monument.

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<sup>3</sup> An explanation for this has since been provided to the effect that refectory style tables were necessary to provide for disabled access, and that the tables were of exactly the same material as that used for the café furniture generally. It is included in the current petition.

17. The DAC responded in October 2023 with a notification of advice that the works were not to be recommended. The committee had met and voted by a majority (10 in favour with one abstention) to arrive at this conclusion. The DAC Secretary, Mr Leggett, in the supporting information provided on 23<sup>rd</sup> of October 2023 set out the reasons for the stance of the DAC. In short, whilst acknowledging the great success of the community hub and the overall benefit which should have brought to the parish, Mr Leggett identified several reasons why support was not being provided. I summarise them as follows:

1. There had been a failure on the part of the PCC to follow the correct processes, or to find out what those correct processes were;
2. Inaccurate information had been supplied, not least when it was communicated that a majority of the removed pews could be recovered when this was not the case;
3. There was a poor standard of workmanship in respect of the fittings that had been used, which were not suitable for the interior of a grade 1 listed building;
4. The letter of support provided by the Archdeacon made reference to the guidelines, rules and regulations of the Church of England, and the PCC should have established what these were;
5. The advice of the inspecting surveyor had not been taken on board, and requests from SPAB and Historic England, for plans in relation to the internal reordering had been ignored;
6. The tables allowed by the earlier faculty for the booths created in the North and South aisles were of a different design to those approved by the faculty;
7. The parish, and in particular the incumbent, were aware of the faculty process having made previous applications for internal reordering, and ignorance was not an excuse.

18. It is of course unusual for a DAC not to recommend internal reordering works. The DAC often becomes involved even before the petition was lodged, and most parishes will follow the advice given, modifying proposals in a consultative and collaborative approach.

19. On the receipt of the DAC supporting information, the parish replied, in a letter sent to the registrar. They had the benefit of a former Archdeacon, Ven Peter Bradley, who was also the chair of the parish development group, within the congregation. He dealt with each of the reasons raised by the DAC, rejecting in the first instance a failure to follow due process. In respect of the pew removal, he referred to my judgment, but acknowledged that this did not appear on the faculty schedule. He raised the point that there was ambiguity as to whether removal implied disposal. Ven Bradley also accepted that the fittings and workmanship for the café were inappropriate, but that these were always intended to be temporary. In respect of the post office arrangements, he indicated that the parish had relied on the advice of Archdeacon McKenzie, but accepted that there may be issues to be addressed. He did not accept that any advice had been ignored, and felt that in fact the Archdeacon and the DAC had not been particularly supportive. The tables were only removed/alterd to allow wheelchair access, something which was brought to the attention of Archdeacon Spiers in January 2023. He communicated the “*shock and sadness*” which the parish had felt when receiving the DAC decision, because they believed that it followed on from a positive meeting which they had had,

particularly when the CBC appeared to be suggesting a way of resolving the matters which were of concern.

20. In addition to the letter addressed to the registrar from Ven Bradley, a far more detailed response was prepared by the PCC, Rev Lock, and the churchwardens. This is a substantial document going to a number of pages, and it would not be proportionate to extract it or set out any great detail within this judgment. Instead I propose to summarise some key headline points that were made by the parish.

21. First, there are significant apologies for failure to follow the appropriate process. The enormous success of the community hub as an integral part of the mission for the church is emphasised, and in not supporting the most recent petition which seeks to correct those matters which are not properly the subject of a faculty grant, it is considered that the DAC were being obstructive and failing to give sufficient regard to the very substantial benefit which has accrued. It was not expected that the DAC would adopt this stance, particularly following the recent meeting, and at all times the parish had always looked to the advisory body for support and advice.

22. Second, in respect of the individual items within the new petition, full explanations are given as to how the need arose for a confirmatory faculty in relation to each. The servery counter was necessary because the service of hot food transferred from the annex to the café was considered a risk, and could have led to the withdrawal of support of the Post Office for the hub project. It is accepted that the servery counter, the shop units and the cupboards, which were initially installed without a faculty in the belief that they were temporary fittings for which a faculty was not required, are not in keeping with the building and will be replaced as part of a design which was being created by the newly appointed architect, Graham Holland.

23. If, and insofar as the signage for the post office and the café required permission, it is pointed out that the areas where signs are necessary came within the responsibility of the local borough council who had given permission. An apology is proffered if this was insufficient, and an indication given that any other signage would be freestanding and temporary, and capable of easy removal. In respect of the tables and chairs in the booths created by the removal of the pews in the North and South aisles, these were in keeping with the café furniture (dark oak) and were simply refectory style. The clear reasoning for the use of these tables, as opposed to those for which permission was originally given, was to enable disabled access. However it was accepted that the parish would install any tables or chairs as are directed, if it was concerned that these were still not in keeping with acceptable internal furniture.

24. The position of the parish in relation to the post office agreement/licence was as stated by Ven Bradley. In simple terms, the parish had acted in complete ignorance that a faculty was required. It was considered that the letter from the Archdeacon (as referred to above) was sufficient. In respect of the final item in the confirmatory faculty petition, the felling of the oak



tree, further apologies are given, and it is explained that this had been undertaken by a volunteer gardener “on a frolic of his own,” and was regretted.

25. The parish did not accept that they had ever supplied inaccurate information to the DAC and explained the difficulties which they had had in communicating with the DAC particularly in 2022, and in various meetings which had been arranged.

26. Insofar as there had initially been insufficient consultation with the CBC, who now appeared to be supportive and seeking a solution, it is suggested that the DAC may have been motivated in opposing the present petition, and not recommending it, by their own shortcomings in not obtaining the necessary external consultation at the outset. If this had taken place, there would have been engagement with a CBC representative going forward, and this would have enabled the parish to have obtained the necessary advice.

27. In the light of the material that had been provided, I arranged for a further visit to the church in January of this year. At the same time there was in attendance the Archdeacon, members of the DAC, the Registrar, and his clerk Dr Roberts. I was able to see the community hub at an apparent busy time, and spoke to various members of the parish. In a short meeting in the vestry, I gave some directions for a hearing to take place at a time convenient to all those interested.

### **Position of the amenity societies/ heritage bodies**

28. In my earlier judgments, I referred to the position that had been adopted by the amenity societies. I do not intend to revisit their earlier views. However, on notification for consultation purposes of the present position, they have made further representations.

29. Mr Hughes of the Victorian Society responded by email to Mr Leggett on 26<sup>th</sup> October. He did not hold back in his overall assessment, although it is possible that he had not made the connection in relation to the permission I had given for the removal of the six rows of pews in the central aisles which have not been formally converted into a faculty. He said:

“Firstly we wish to highlight that what has occurred at St Thomas's represents one of the most shocking abuses of process that the Society can recall for a very long time. It is disappointing indeed, particularly given the parish's experience in recent years of dealing with the faculty process. Were such extensive uncontented works to be carried out to a Grade I listed secular building, we would have no hesitation in reporting it as illegal.”

30. Specifically in relation to the pew removal he said:

“We are though unconvinced of the principle of removing six rows of benches from the west end. Champneys’ benches are unusual, contextual and high quality, and the loss of any number of them would undermine the interest, integrity and significance of the historic interior. The clearance of a substantial block from the rear of the church undermines that significance considerably. In our view every effort should be made in the first instance to trace these furnishings. While the removal of a limited number of them might in due course be acceptable, the extent of implemented removal is in our view simply too great.”

31. Despite expressing these concerns, he accepted in principle the operation of a post office in the annex, the use of a servery for the café and the creation of the cupboards, with a specific qualification:

“The principle of a servery is also uncontentious. Like the cupboards, however, in its materials and details it hugely detracts from the character and appearance of the historic interior and is completely unacceptable. A carefully designed cabinet servery that is capable of being enclosed when not in use, and which harmonises with the historic interior, should be the aim.

These aspects then are all issues that could be suitably remedied by interventions of far higher quality of design, detailing and materials, and which could, conceivably, be dealt with within some limited timeframe set down by the Chancellor. However, as implemented, these interventions cause a considerable level of harm to a historic church interior of the very highest significance.”

32. Historic England, it would seem were not originally involved in the consultation process in 2019, but responded to Mr Leggett in August of last year in a similar vein regretting what they perceived to be works that had been undertaken without permission, although they declined to comment on aspects other than alterations to the historic furnishings. In relation to a possible restoration, Mr Davison said:

“Given the high significance of the church, and the impressive appearance of the interior, it is most regrettable that normal procedures have not been followed. As a result, Historic England is being asked to comment on an application which has been submitted for permission to make changes which have already taken place. In the circumstances, requesting the replacement of the pews which have been removed and disposed of would serve little practical purpose.”

33. Further, he commented on that which had been installed in the place of the pews:

“The impact of the removal of the rear pews on the appearance and significance of the church interior is compounded by the poor appearance and materials of much of what has replaced them. The making good of the floor following removal of the pews and plinths (item a in the list of works for which retrospective permission is sought) has been done well, and the cafe area (item d) is furnished with chairs and tables of traditional design which at least blend with the colours of the existing fixtures. However, the cupboards (item b); the Kitchen Servery (item c), and the shop area and display cabinets (item e) all employ off the shelf components in poor quality materials.”

34. Finally, and as indicated in the detailed response from the parish, the CBC have played an active role in the consultation process. It is correct that their approach has been constructive and supportive, identifying the very significant benefits from a community hub, which is perhaps not surprising bearing in mind its non-secular and missional focus, although criticisms remain in respect of the process which has been followed including a lack of earlier consultation. After identifying those unauthorised works which harm the significance of the church, essentially the furniture that has been described as temporary and modern, Claire Smith makes this comment:

“In order to demonstrate its case, the parish needs to produce a well considered long-term plan for the church building, based on its current evidence of satisfactory use are shown to the council. The plan needs, in addition, to cover both maintenance and net zero carbon..... The parish has already articulated a clear vision for the church and community hub, which forms a good basis for making decisions about the building.”

### **The Hearing**

35. The consistory court hearing afforded the parties an opportunity to provide additional evidence, received informally, in relation to their respective positions and to answer questions from myself. The DAC spokesperson, its chair Rev Emma Williams, informed the court of its concerns, and explained why the petition had not been supported. The parish made representations through Rev Paul Lock, which not only included apology and contrition for the failure to follow due process, but also emphasised the huge benefit by the operations of the community hub. The architect, Mr. Holland also provided material to the court which indicated how the internal fittings which would be provided going forward would be arranged, and how they would differ from the current installations. I indicated that I would consider carefully all the evidence and the substantial bundle of documentation that had been provided, and would reserve my judgment.

### **Discussion**

36. I have not found it helpful to engage in any purposeful blame attribution in this unfortunate situation. In particular whilst I acknowledge that the parish were desperately disappointed to receive the “not recommended” statement of the DAC for the confirmatory faculty, in the lengthy response to the DAC position statement the suggestion that there may have been some ulterior motive to cover earlier failures in consultation by the DAC is inappropriate, and I reject it. The DAC has an important role to play, and the upholding of due process in the faculty jurisdiction is absolutely essential. They have correctly identified a number of deficiencies in faculty application in this extensive reordering project and in my judgment if they had supported the confirmatory faculty this would have provided completely the wrong signal, essentially condoning the bypassing of that process in the context of an extremely important heritage asset in a grade 1 listed church building.

37. However, I am quite satisfied, on the basis of the evidence of Rev Lock on behalf of the parish that there has been no deliberate attempt to manipulate or abuse the system for faculty grant either by approaching the extensive reordering which they have undertaken over the past few years on a piecemeal basis, or in respect of the more recent creation of the community hub. Mistakes that have been made arise out of, perhaps, an ostrich-like approach to ecclesiastical law requirements which has led to the present denouement.

38. Equally, I can understand why the parish feels disappointed at what they perceive is a lack of support and an apparent confrontational approach from the DAC. At times there has

been a tension, which I sincerely hope will diminish in due course. This was not a process which was intended to punish any failures or breaches by the parish, but to endeavour to find a way forward which respected compliance with the faculty jurisdiction. In extreme cases, the court is occasionally called upon to make restoration orders. If I had not given permission in judgment 2 for the removal of the six pews on either side of the central aisle, I agree that this would have been an egregious case of damage to a very important heritage church building. It may well be that this was understood to have happened, at least in the case of the Victorian Society. Of course the formalities must be observed, and it is easy to understand how an assumption might have been made upon receipt of my judgment in which I clearly considered the balancing exercise involved in a significant internal reordering, that a green light had been given to proceed with the pew removal. It is also regrettable that further clarification was not provided as to how the pews should be disposed of, either in my judgement or in the original DAC advice. I understand that when the DAC was originally supportive of this project at the time of petitions 2 and 3 there may have been some detailed discussions. That is now, however, water under the bridge.

39. I have already set out clearly the Duffield principles which must be applied in my earlier judgements. It is unnecessary to repeat them for present purposes. Having dealt with the pews previously, I see no reason why their removal cannot now be affirmed. In relation to the furniture comprised in the cupboards at the rear of the pews, and all the fittings which represent the café, servery and the shop, it seems to be accepted by all concerned that these are inappropriate and cannot continue. The level of harm is significant, and despite the very substantial benefit which is being achieved by the community activities, such a benefit would not be diminished by having fittings that are in keeping with the interior of a historic church building. This is clearly understood by the newly appointed architect, Mr Holland, who has presented designs for that which will replace the furniture.

40. Accordingly, I address each of the petition items.

- (a) This is confirmed for the reasons stated above. The original faculty should have been granted on the basis of my judgment. The pews that were removed, cannot now be recovered.
- (b) This item should be considered in conjunction with (c) (d) and (e). The present storage cupboards, the kitchen servery furniture, and the units to the west wall, will have to be removed. However, I acknowledge that if this is undertaken immediately it will lead to the virtual and immediate cessation of the community hub activities, including the café, the shop, and probably the post office. The parish understands the need for a sensitive and aesthetically acceptable design for the replacement furnishings, and I do not believe that it is either procedurally or proportionately necessary for this to be included in a separate petition. I propose to allow the parish a period of 12 months to design and install the necessary replacements which must be approved by the DAC. Essentially I give permission for the parish to continue with the present fitments for a limited period. The advantage of this is twofold. First of all it will provide the necessary monitoring and supervision by the DAC, to ensure that the design is acceptable. Doubtless they will want to work closely in consultation with the CBC, who have offered assistance. Second it will create an opportunity for the repairing of the relationship between the DAC and the

parish, and hopefully a reconciliation which will be beneficial going forward, especially if any further changes are to be contemplated. I will provide further directions on implementing this at the end of my judgment.

- (c) As indicated above
- (d) As indicated above
- (e) As indicated above
- (f) The registrar has already provided his assistance in the correction of the licence agreement with the Post Office. To formalise the arrangement, and bearing in mind that it appears to be universally accepted that the facility provides a very great benefit to the community, I confirm the retrospective grant of a faculty.
- (g) There is no objection to the Post Office continuing in the South Extension/annex, and I confirm that the faculty is granted accordingly.
- (h) This appears to be relatively uncontroversial. For the avoidance of doubt, however, I direct that whilst a faculty can be granted for the erection of signage externally, such signage should not be permanently fixed to the church building or boundary walls, and capable of easy removal.
- (i) It was agreed that the tables which are in position in the side aisles whilst not those originally indicated, are nevertheless in keeping with the café furniture generally which is acceptable to the amenity societies, and an any harm is negligible. I confirm the faculty for this.
- (j) In relation to the felling of the oak tree, there is little that can be done about this. The faculty grant can include it retrospectively. However, I advise the parish to ensure that all volunteer gardeners are aware of the permissions required, and any tree within the churchyard is identified and protected with an appropriate list kept within church records

### **Final matters**

41. The faculty should now issue as indicated above. Whilst this authorises the temporary use of the current fittings and furniture in relation to (b) to (e), it should be expressed as a condition of the faculty that such fittings and furniture are removed within 12 months of faculty grant and replaced with a design that is acceptable to the DAC and submitted to them for approval within six months of faculty grant. It is unnecessary for the petition to be returned to me unless any of the parties consider that a further direction as required or that the withholding of approval is unreasonable.

42. There is no other condition necessary.

43. I do, however, need to address the question of fees and costs in association with this petition, including the hearing. I am aware that a considerable amount of work has been undertaken by the registry in the investigation and presentation of this petition for a consistory court hearing. It seems to me that it has been non-compliance and the failure to follow the due process of the faculty jurisdiction on the part of the parish that has required this petition to be presented by the Archdeacon. In my judgment ignorance of the procedure cannot be an excuse.

44. As I have indicated above, the position of the DAC cannot be described as unreasonable. In the circumstances I have no alternative but to direct that the parish should bear the fees and costs associated with this petition. I invite the registrar to submit to the court (for my consideration) and to forward to the parish by 14<sup>th</sup> June 2024 any claim for costs together with a summary (description) of the work involved in the occurrence of those costs. The parish should be afforded a further 14 days (to 28<sup>th</sup> June) to respond and to make any representations (by sending these to the registry) as to why they should not pay any costs. Of course I waive my own fees in relation to this judgement and the consistory court hearing. On receipt of any claim representations in response I will provide an appropriate direction.

45. It simply remains for me to make this observation. All those involved in this unfortunate case have conducted themselves with dignity and sought to resolve matters sensibly which augers well for improved relationships from here onwards, and which has made my determination more straightforward, for which I am grateful.

HHJ Graham Wood KC,  
Chancellor of the Diocese of Liverpool

28<sup>th</sup> May 2024