

Neutral Citation Number: [2025] ECC Lon 1

IN THE CONSISTORY COURT

DIOCESE OF LONDON

In the matter of St John the Apostle, Whetstone (faculty 4694)

and

In the matter of a Petition of the Reverend Kim Quak-Winslow, Priest-in-Charge, Robert Victor Wright, Churchwarden, Brian Vincent Wakeham, Churchwarden; and the Objection of Peter Pickering FSA

and

In the matter of the removal of pews from the church building and the introduction of new seating

Judgment of the Chancellor

April 1, 2025

Etherington Ch:

1. This judgment concerns the petition of the Reverend Kim Quak-Winslow, Robert Victor Wright and Brian Vincent Wakeham who are respectively the Priest-in-Charge and Churchwardens of St John the Apostle, Whetstone to permit the removal of pews from the church building and to authorise the introduction of new seating. The Petition is dated January 21, 2025. The cost is estimated to be between £30,000 and £50,000 and the Parochial Church Council (PCC) holds funds sufficient to meet this sum. The PCC passed a resolution supporting the proposal on January 21, 2025. The Diocesan Advisory Committee (DAC) on January 21, 2025 recommended the proposals to me with three provisos: one, that a representative sample of pews be retained; two, that at least ten per-cent of the chairs should have arms and, three, that the replacement seating must be made of timber and not be upholstered.
2. The Petition has the support of the Archdeacon of Hampstead, the Venerable John Hawkins, who wrote his letter of support on March 2, 2023.

3. The Statement of Significance (SS) covers more ground than is necessary for me to determine the Petition to remove the pews. It was created in order to support an extension to the church which is not the subject of this faculty. The removal of pews does, however, have as its underlying logic some of the issues that will be raised in support of the wider project.
4. The church was built in 1832 in the Gothic style and is Grade II listed.
5. In the view of the Victorian Society (VS) these particular pews were probably introduced in 1879 by James Brooks when he was carrying out extensive work, most notably adding the chancel, a vestry, two new porches, inserting plate tracery to the windows of the nave, constructing a new roof, a stone font and an organ case.
6. There is a lack of consensus as to the significance of these pews. Those taking a higher view of their significance include the VS. It says that Brooks's work at Whetstone cannot be considered as significant as some of his work elsewhere but that the pews are typical of his robust but under-stated joinery which contributes to an understanding of his work at Whetstone as well as defining the character and appearance of the interior.
7. The SS submitted by the Petitioners, compiled by Hannah Walker, who is an expert in historic conservation, describes the timber pews as being of moderate significance using the definition in *Guidance on Heritage Impact Assessments for Cultural World Heritage Properties* of 2011. Moderate significance is defined as "attributed to those elements of the building that are of moderate special architectural/historic interest which contribute to the building as a whole and its historical evolution."
8. The Priest-in-Charge and Jennifer de Carmo, the Buildings and Operations Manager say in a joint letter that the pews were 'not part of the original design and not thought to be significant' and 'not thought to be of any historical note.' Everyone agrees that the pews were not part of the original design, but Hannah Parker does describe them as being of moderate significance, so there is a degree of difference within the Petitioners' own case.
9. The Statement of Need (SN) states that the vision for this church is that of "radical and inclusive" welcome, encouraging a diverse congregation and sets out the pattern of worship and events, including those relating to prayer and study and a list of those events associated with community life. It is further stated that the current church building does not meet the needs identified by the vision and I am told that a rapidly growing number of people are attending services and community events. There is a helpful commentary on the modern-

day church within its evolving community. As a guide to numbers, I am told that Holy Communion on Sunday morning attracts 15-20 worshippers and the Eucharist around 40-65 worshippers and 35-45 children. Monthly 'messy church' attracts 40 children with appropriate adults and there is a monthly community lunch attended by 50-60 people. Some of this increase in numbers will be accommodated by a building project but it is said that since this is not anticipated to be finished (if approved) until the second half of 2026 there is a need to open up existing space. Both 'messy church' and monthly lunches have to have numbers capped because of lack of space. Space for children at the back of the church is fully utilised.

10. Some of the wider plans – Response Ability Theatre, a Dementia Café and a Night Shelter – will likely depend on the new building, although I am told that removal of the pews would play some part in accommodating these projects, perhaps more particularly the theatre group. It is also said that there is a need for more rentable spaces, although this use of flexible space is not particularised and would likely need faculty permission which would depend on the use to which any part of the church was proposed to be put, bearing in mind its central purpose as a place of worship and its consecrated status.
11. The proposal is to remove 28 pews and four choir frontals and to replace them with moveable, stackable chairs. It is said that the *Theo* chair would be a suitable replacement, having been tested by the congregation. I will turn to the question of the chairs in due course. I am told that it is proposed to keep a small number of the 28 pews which would be utilised in the church and the proposed new building.
12. It is said that other options were not viable because the pews are extremely heavy and cumbersome and can only be moved around within the church which would not make much difference anyway as they are not stackable in any practical sense.
13. The replacement chairs, they say, will have a proportion (ten per-cent) with arms. Several sample chairs have been tried out. The Petitioners assumed at the time of drafting the SN that these would have upholstered seats, and they have taken advice from manufacturers as to durability and maintenance.
14. There are therefore two principal issues with which the court has had to grapple: first, the question of whether the Petitioners have established to the necessary standard the need to remove any or all of the existing pews and, second, if they have, whether the proposed replacement chairs are appropriate.

15. There is an apparent Objector to the Petition, Peter Pickering. His letter, which has been treated as a letter of objection, was followed by a response from the Petitioners. He was sent the usual written communication asking whether he wished to join the proceedings as Party Opponent or instead opt for me to take his observations into account when deciding the Petition. He did not reply and I have taken his observations into account in reaching my decision.

16. The Church Buildings Council (CBC) defers further consideration of this matter to the DAC. The VS has entertained a good deal of doubt about the scheme because of the effect on the church as a whole by removal of all of the pews except for a representative sample, which is proposed to be four pews. This doubt seems to have been somewhat assuaged by further and better particulars of need being given to the VS by the Petitioners and what the VS appears to be taking as (i) an undertaking to retain a representative number of the pews and (ii) an agreement to install suitable unupholstered chairs in line with the CBC's guidance on the topic.

17. On this basis the VS did not seek and was not offered the opportunity to become a Party Opponent. I am clear that the Petitioners are proposing to keep four pews as they have stated. If it be the case that unupholstered timber chairs have not been agreed to by the Petitioners, contrary to what the VS understandably believes to be the case, then any attempt to revisit that issue (which forms one of the DAC's provisos) would require the VS to have the opportunity to become a Party Opponent if it wishes or, if it does not, the opportunity for to make further written representations.

18. It appears to me that Mr Pickering's letter does not deal with this proposal at all but rather with one to remove six rows of pews back in 2022. He explains that he is on the electoral roll of the church and is a regular attender. He is on the Historical Buildings and Conservation Committee of the London and Middlesex Archaeological Society. He asks for the proposal to be assessed with the same degree of rigour as would be applied to a secular building not covered by the ecclesiastical exemption. He describes the pews as good, solid and Victorian, but he seems in fact not to be objecting to the more modest proposal in 2022. He says: 'I probably should be objecting to their total removal, but you may judge that what is proposed is an acceptable compromise which enables a flexible use of the church. Certainly, the chairs seem a great deal better aesthetically than chairs I have seen in some churches I have visited.'

19. There is an undated response from the Priest-in-Charge and the Buildings and Operations Manager to which I have already referred (in a short extract) in paragraph 8 of this judgment.

20. This is where things become rather confusing. Mr Pickering's letter is not about the present proposal at all (unless there is another letter which I have not seen) and seems to be an acceptance that the original proposal in 2022 was not unreasonable or would not be judged to be such. From the tone of the letter, I consider it reasonable to draw the inference, however, that he would have had strong objections to the present proposals which he is unlikely to have seen as an 'acceptable compromise'. His email letter does not seem to particularise what the detail of his objection is other than he had reservations about the original proposal (removing some pews) which he describes as having Victorian solidity even though they are later than the initial building.

21. The test in ecclesiastical law in a petition such as this is governed by *In Re St Alkmund, Duffield* [2013] Fam 158 (known usually simply as *Duffield*). Guidance is given as to how to perform the necessary balancing exercise in such situations by approaching the task in steps:

- (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) It is then necessary to assess how clear and convincing is the justification for the proposals;
- (5) Generally, the greater the harm, the greater the demonstrated benefit will need to be 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.

22. There are two proposals here. The first concerns whether the removal of all but four of the pews would result in harm to the significance of the church (as it now is) as a building of special architectural or historical interest.

23. In my judgment, the harm to be assessed is potentially one of two kinds. The removal of the pews *per se* and the removal of the pews in the context of the building as a whole. I can be relatively brief about the intrinsic quality of the pews themselves. The VS believes that the pews are probably by James Brooks as previously stated.

24. The Petitioners take somewhat varied and varying stances. The SS describes them as being of moderate significance. The amended SN does not and refers to further research, but I am not sure whether this is saying more than that they are not the same as some other pews designed by Brooks and nor am I told who precisely carried out this research and with what expertise. When it is said

that 'it is difficult to say whether they are of historic note, or simply cheaper timber' I am again confused as to *who* is unsure and what expertise this person or these people have in this particular area.

25. The situation becomes further complicated by the Priest-in-Charge stating definitively in a letter dated November 5, 2024: 'The irony is that the pews aren't even Victorian; they're cheap benches.' I am unsure as to how this definitive view has been arrived at.

26. I have been presented with the opinion of Hannah Walker that the pews are of moderate significance, the presumption by the VS is that they are by Brooks, the view of the amended SN that it is difficult to tell one way or the other and the statement by the Priest-in-Charge that they are not Victorian at all and are simply cheap benches. I have concluded that, at the very least, they may be by James Brooks, that (as is agreed) they are not examples of his best work, that they are probably Victorian and that I have no idea what they cost at the time and whether, if they are not by Brooks, they were cheaper or more expensive than if they had been.

27. I have concluded that their removal *per se* may well cause some damage to the architectural and historical significance of the church, but I assess it as low, and low to the point where the need is easily established.

28. Looking at the potential harm in the wider context of whether their removal would damage the architectural or historical significance of the church as a whole, I am happy to adopt the categorisation of significance given by Hannah Walker in the SS and I am concerned only with the interior in this particular Petition.

- a. HIGH SIGNIFICANCE – the original internal spatial quality of the nave and the dramatic scissor-based roof; the attractive proportions and timber barrel vaulted roof to the chancel and its associated arches through to the nave and the lady chapel; the William Morris & Co stained glass window in the eastern wall of the chancel; the Lavers & Westlake stained glass window in the western wall of the nave; the granite Baxendale memorial on the western façade; the organ, pulpit and font.
- b. MODERATE SIGNIFICANCE – timber pews and flooring to the nave; stained glass World War Two memorial window and Esther Passmore memorial window within the nave; stations of the cross frieze; internal space within the vestry; wall tablets within the nave and suspended light fittings to the nave.

29. I have also been helped by the photographs helpfully submitted which give a clear impression of this church.
30. The removal of nearly all of the pews will self-evidently change the look of the church considerably. This will cause damage to the architectural and historical significance of the church as a whole as it is now, which harm I assess as being low to moderate. Of course, each age has its own needs and fashions in church buildings as in secular ones. Each age also holds in trust listed buildings to hand on to succeeding generations who in turn will have their own needs and fashions. No age has the monopoly in wisdom and the tension between alteration and preservation is a particular feature of this court's work. I judge here that, given the clearly established need for much more space with the changing demographic profile of the congregation and the increased attendance and vitality of this church, the proposed changes are justified.
31. Faculties are permissive in nature and, therefore, the retention of the four pews does not require my approval and I will not express any view about it.
32. The last question relates to the chairs. If they are made of timber, unupholstered and otherwise suitable for the building then there is no issue and they will replace the pews. If the topic of upholstery is to be revisited, then this will require further consultation with the VS who would have the right in these circumstances to become a Party Opponent if it wished. I note in passing that even where upholstered chairs are permitted, vibrant colours are very rarely permissible because they will likely dominate the space to the detriment of other features. The smaller or narrower the space is overall, the more damaging such an effect potentially will be.
33. Accordingly, I grant a faculty for the removal of the pews save for four which must be displayed in the church or in the new building if and when it is created. I impose, following the DAC's provisos, these Conditions:
- a. CONDITION ONE – Four pews are to be retained and must be displayed in the church or (when built) the new building.
 - b. CONDITION TWO – The replacement chairs are to be made of timber and must be unupholstered unless otherwise ordered by the court.
 - c. CONDITION THREE – At least ten per cent of the new chairs must have arms.
34. Should the Petitioners wish to request any variation to CONDITION TWO, then written notice with reasons must be served on the Registry and the VS by 4pm on April 22, 2025. The precise colour of any proposed upholstery must be

clearly specified and identified photographically. The court will then give further Directions as to how the matter will be resolved. I add a cautionary note: there is specific guidance from the CBC which does not favour or recommend upholstered chairs in churches with listed status, the VS has made clear it does not support upholstered chairs in this church and the DAC has given as a proviso to its recommendation in favour of the Petition which states that the chairs should be unupholstered.

35. I have taken Mr Pickering's email letter into account.

36. I am very grateful to the Venerable John Hawkins, Archdeacon of Hampstead, for his helpful letter. Some of the details may have changed a little (design of chairs, retention of four pews) since he wrote but the broad thrust of his observations remains the same and I have taken what he has written into account.

37. I make no order as to costs in respect of this judgment.