

**IN THE CONSISTORY COURT OF THE DIOCESE OF LEICESTER**

**IN THE MATTER OF: ST JOHN THE EVANGELIST, DONISTHORPE**

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**JUDGMENT**

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1. The early Victorian church of St John the Evangelist, Donisthorpe has a Grade II listing. It was designed by Henry Isaac Stevens and consecrated on 25 August 1838. It is described by the Victorian Society as an “*austere*” lancet style church and is noted in “Buildings of England” as being the least altered of the contemporary lancet-style churches in the county.
2. Following its consecration, a gallery and organ were installed sometime between 1849 and 1865, and later 19<sup>th</sup> century reordering followed with the nave being renovated in 1888-90. In 1891 further extensive renovations were carried out, including to the chancel and vestry with a new pulpit, choir stalls and communion table were added. Little has changed significantly in the intervening period and the interior preserves many of its original features including the west gallery with its lancet frontal and box pews in the aisles. A common thread to be drawn from the various important contributions of consultees to the plans which form the subject of this petition is that although there may be reservations about the quality and aesthetic merit of the various interior components of the church individually, there is interest to be drawn from the “*ensemble of fixtures and fittings*”<sup>1</sup>, with the “*...assemblage of furnishings from several eras, reflecting the contribution of each generation of worshippers.*”<sup>2</sup>
3. Besides the interest provided by the fabric of the building, it is also of particular relevance that the church occupies a place of significance within a flourishing population, both as the

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<sup>1</sup> Historic England letter to DAC Secretary 20 July 2017

<sup>2</sup> CBC letter to DAC Secretary 4 November 2019

centre of worship in former mining community which has undergone significant and successful regeneration, and as a focal point for diverse social purposes, ranging from exhibitions and fund-raising events to amateur dramatics and musical performances. It is also of note that the church used to have a spacious and well-equipped church hall opposite. It was closed in 2007 due to disrepair and, in the absence of funds to repair it, the hall was closed and the church reluctantly found itself forced to sell it in 2017.

### **The Petition**

4. By a Petition dated 17 September 2020, the Team Rector and churchwardens, with the support of the PCC, seek a faculty for substantial internal reordering. The main elements of the proposed works are:

Removal and disposal of nave pews, choir stalls, pulpit, vestry screen, storage area screens, inner tower doors; removal and disposal of pipe organ, blower and panelling; remove existing flooring in nave and chancel and replace with new concrete suspended flooring with stone and timber flooring finish and stone steps, ramp to dais and carpeting on part of dais; relocate existing font to new dais; form new reredos behind altar incorporating storage; new partitioned WCs and storage area in north west part of the nave, with associated plumbing and drainage; install a new servery area in the new south west part of the nave; new dado wall panelling to the walls of the nave to incorporate elements of new heating system; instal new heating system including an oil fired boiler; install tanking system and new sump pump, filling in an old coal chute and installing a new boiler house entrance; install destratification fans to the nave west wall; replace all electrical and lighting systems; install new audio visual and hearing aid loop systems; install new fire alarm system; introduce a new drainage system running through the churchyard; renew existing water supply pipe running through the churchyard; forming a new vestry in the tower at first floor level; installation of new glass doors in the inner tower/west porch entrance with new entrance matting system and matching of the porch floor with that of the church; formation of an emergency refuge for wheelchair users in south east nave corner; general redecoration; introduction of 150 stackable Alpha chairs, 5 transportation and storage dollies, 10 folding tables and a storage transporter, removable altar rails, 2 prayer desks and seats, a new lectern, a new Makin Rydal organ, a new safety rail to balcony; dispose of

various items from the vestry including safe, cupboard and tables; dispose of items from the Sanctuary/Chancel including, importantly, the lectern, organ and pulpit as well as other items including altar rails, credence table and choir stalls; dispose of various items from the nave including blue upholstered chairs, piano and screen; disposal of old pew parts from the balcony.

5. All in all there are 25 itemised elements of the proposed reordering, many of them of further broken down in detail.
6. The Petitioners do not shy away from the scale of the transformation to the interior these works would bring about (the project architect, Peter Rogan<sup>3</sup>, refers to the “*bolder approach*” that the proposals envisage and the Victorian Society expressed it as “...*a very radical remodelling of this interior*”<sup>4</sup>). However the parish places emphasis on the view that “*There are a number of better examples of Stevens’ interiors nearby*”<sup>5</sup> and the various alterations to the interior which have “*not been carried out with exceptional craftsmanship, beauty or architectural vision*”<sup>6</sup>, leading, in the parish’s view, to a diminution in the interior’s significance. More significantly, in my judgment, it argues strongly that the church is crying out for exactly such an open-minded and brave approach, pointing to extensive and well-articulated needs of the community, which are inhibited and rendered impractical by the current layout and which are not possible, the parish says, to achieve via a partial or more piece-meal approach to interior transformation. In its desire for modern worship, the parish feels a strong disconnection from the Victorian preaching style which is dictated by the present interior elements and layout. It also points to the emphases in the *Taylor Review of Sustainability of English Churches and Cathedrals* and the 2004 *Building Faith in the Future Report* on communal function and connection to the community as the foundation stone of its desire to revivify the church by the creation of a pared back, open and flexible interior space (“...*The project aims to change the interior from something that feels dark and does not lift the spirits into something which raises the spirit, gives access to the scared, serves 21<sup>st</sup> century worship needs, and provides space for community*”).

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<sup>3</sup> Who I note was the DAC architect reviewing the original proposals for the Duffield DAC and who states that “...*The needs of Duffield were trivial compared to Donisthorpe*” (letter to Team Rector 29.06.20)

<sup>4</sup> Letter from Vic Soc to DAC Secretary 08.12.08

<sup>5</sup> James Edgar, Statement of Significance, p24

<sup>6</sup> Parish architect, Peter Rogan, email to Team Rector 16.07.19

*activities*”<sup>7</sup>). This drive is encapsulated in the parish’s title for this project: “A Building for All”.

7. The consultees, on the other hand, have many more reservations about the extent of the works and the impact of them. These have been expressed in multiple ways and in detail but were perhaps best summarised by the Victorian Society when it expressed its overarching view that it has “*serious reservations about a scheme that would have a transformative and detrimental impact on the character and appearance of...a nationally important historic interior...*”<sup>8</sup>
8. Resolving these tensions was never going to be an easy task but all concerned have worked extremely hard and invested much time, energy and attention into this project. I now turn to my own evaluation of the proposals against the relevant legal framework.

### **Background and procedural history**

9. The changes proposed are significant and the matter has, understandably, been the subject of much detailed correspondence from a number of sources. The Petitioners have also provided detailed and thoughtful responses to the points raised for consideration or by way of objection to the proposals from time to time. Proposals to modify the church appear to have been under careful consideration for a very long time. In November 2008 the DAC, Victorian Society and CBC made a site visit, which resulted in a DAC report dated 7 November 2008 containing a nascent outline of the plans that were to follow. The CBC and Victorian Society were both concerned by the prospect of any plan to strip out the existing interior extensively and at that point it is fair to say that legitimate concerns were raised that the significance of the interior and its component parts had not been sufficiently investigated.
10. By 2013 the plans had been given further serious consideration and a further site visit was held, attended by the DAC (who have been a steady and generous source of reference and guidance throughout the long process of planning these works), the CBC and Historic England. One of the conclusions the DAC noted was, again, that a proper assessment of the

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<sup>7</sup> James Edgar, Statement of Significance, p24.

<sup>8</sup> Email from James Hughes to DAC Secretary 01.05.19

significance of the fittings was needed, ready for consultation with the statutory consultees. From this came the recommendation by the CBC that David Hawkins should be approached to assist in assessment of the significance of the interior, leading to the production in 2014 of a “Pew Report” by Mr Hawkins. Disappointingly, the Pew Report did not go far enough in providing a proper understanding of significance sufficient to inform interested parties whether disposal of the pews was appropriate, whether there was scope for adaptation and alteration, and so on. The CBC, despite having been behind the recommendation of Mr Dawkins to prepare the report, criticised the lack of available information about significance and made helpful observations as to how this could relevantly be assessed again. This was also the position of other consultees.

11. To the great credit of the Petitioners, throughout a long and potentially dispiriting process, they have approached each observation and objection constructively and have kept both a clear understanding of the needs of the community alongside an evident love and respect for the church building clearly in mind. They have not baulked at being asked to reconsider on many occasions, to reassess and to ensure that the significance of the affected fittings has been fully and properly understood. They have been greatly aided in this by the focussed and intelligent efforts of the DAC to ensure that the best quality Statements of Significance and Need were ultimately produced, as they subsequently were in January 2020 (Statement of Significance) and June 2020 (Statement of Need). These notably superior documents were produced on the back of further site visits (including in June 2017), further commentary and input from the DAC and consultees, together with the instruction of a highly expert conservation professional, James Edgar, who (amongst other notable conservation roles) had previously been an Historic Buildings Inspector for Historic England for 23 years. Mr Edgar produced the impressive Statement of Significance upon which much of this Petition is premised, and his work is exceptionally thorough and helpful.
  
12. The dialogue between consultees (in particular the CBC, the Victorian Society, Historic England and the conservation officer for NW Leicestershire<sup>9</sup>) and parish has been significant. Ultimately none of the consultees wished to join these proceedings as party

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<sup>9</sup> The Ancient Monuments Society was also consulted but has not offered substantive comments.

opponents, but in reaching the decision which follows I have carefully considered and taken into account their immensely detailed and helpful written objections and concerns.

### **The applicable principles**

13. I have already said that this is a grade II listed church. The proposed works will lead to a marked alteration in its internal appearance. Therefore the approach laid down in *Re Duffield: St Alkmund* [2013] 2WLR 854 as modified in *Re Penshurst: St John the Baptist* [2015] 17 Ecc L J 393 is to be followed, namely:

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

13.2. If not, have the Petitioners shown a sufficiently good reason for change to overcome the ordinary presumption that in the absence of a good reason, change should not be permitted

13.3. If there would be harm to the significance of the church as a building of special architectural or historic interest, how serious would that harm be?

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

13.5. In the light of the strong presumption against proposals which will adversely affect the special character of a listed building, will the benefit outweigh the harm?

14. In considering the final question I must bear in mind that the more serious the harm the greater the level of benefit needed before proposals can be permitted.

### **The application of *Duffield* to the facts**

15. In my judgment it is sensible to assess the level of harm and consider the some of the key elements of the work separately (as, for example, *Re All Saints, Ockbrook*<sup>10</sup>). Some works will have relatively minor effects, requiring little by way of justification, and other elements

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<sup>10</sup> [2021] ECC Der 1

have a more serious and harmful impact, in respect of which the justification for that element of work needs to be more compelling. Equally the public benefit from some proposals will be obvious, while with other proposals it will be less so.

16. As they are so numerous and detailed, where appropriate I have collected the proposed works, below, into groups involving similar changes. I will start by an evaluation of the proposed works which, in my judgment, give rise to the most serious risk of harm and/or bring about the most impactful changes:

*Removal and disposal of nave pews and choir stalls, introduction of 150 stackable Alpha chairs, 5 transportation and storage dollies:*

17. The proposals would result in the removal of all current pews in the nave (which includes the remaining box pews) and all of the choir pews in the chancel. The Statement of Significance observes: “*It is not possible to mitigate this effect without radically changing the rationale for the re-ordering*”<sup>11</sup>. Some pews would remain in the church as a result of the retention of the gallery, but there would be none left on the ground floor. The ground floor seating would, under the proposals, be entirely replaced by stackable, lightweight, upholstered Alpha chairs.

18. After much correspondence and careful consideration by all concerned, together with the detail in the impressive new Statement of Significance prepared by James Edgar, there is no longer any major opposition from the majority of the consultees<sup>12</sup>. That is not to say, however, that there are no longer any concerns, or that the impact of such an extensive proposal for removal has been minimised by the parish or the consultees. The CBC encapsulated this fairly in its letter dated 28 July 2020 when it stated that “*No-one involved takes lightly the removal of all the pews, stalls and benches from the ground floor of the church...*” But after careful consideration of the detailed analysis of the significance of the seating, the majority of the consultees expressed acceptance of the principle of removing the seating or stated that they were content to leave consideration to the DAC. The primary outstanding concern of substance (expressed by the Victorian Society) is the type of

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<sup>11</sup> Statement of Significance p.24

<sup>12</sup> The final substantive correspondence from NW Leicestershire DC (1 July 2020) reiterated earlier objections and is dealt with further below.

replacement seating to be used if permission is given for removal of the pews and choir stalls.

19. Turning first to the *Duffield* questions in respect of the proposals.

20. As to the first question “*Would the proposals if implemented result in harm to the significance of the church as a building of special architectural or historic interest?*” I am satisfied that the removal of the pews and choir stalls from the church would result in such harm. Although there has already been a significant removal (around 45%) of original box pews from the church, in my judgment the remaining pews and choir stalls contribute to the significance of the church’s historic and architectural interest, and the recognisable appearance of its interior as, a late Georgian/early Victorian pre-Ecclesiological church building. Their removal would result in harm to that significance in that the interior of the building would unquestionably have a very different appearance without them, losing an element of uniform visual stability which contributes to the character of the room and, perhaps, also something of the symbolic quality of fellowship that can be conveyed by the presence of pews. It would also be changed in an irreversible way if the pews and stalls are sold or otherwise disposed of.

21. This leads on to the more nuanced consideration of “*How serious would the harm be?*” Over the course of the long and extensive consideration of these proposals, harm caused by removal of the current seating has been assessed by consultees, experts and the parish in various ways ranging from “*of some significance*”<sup>13</sup> through to “*verges on the substantial*”<sup>14</sup> (although this was in reference to the composite interior rather than the seating *per se*). I have considered in detail the basis for these assessments in order to form my own view, below.

22. Although mentioned in the listing entry there is not much to be gained from the details contained in the entry, which merely describe the box pews as “*original*” and the open pews and choir stalls as “*slightly later*”. In an effort to look more deeply into the question, the Petitioners sought to support earlier iterations of the proposals for re-ordering by the 2014 Pew Report of David Hawkins on the recommendation of the CBC. In my judgment his

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<sup>13</sup> Statement of Significance by James Edgar

<sup>14</sup> Email from CBC dated 15 March 2019



relatively short report missed the mark of a proper consideration of significance by an appreciable margin. It looks mainly at the structure and form of the seating in the church and contains little by way of evaluation of the significance by reference to history, design, originality, quality or context. The inadequacies of this report were commented upon by all consultees, including the CBC who had originally recommended it, and were the foundation of the concerns expressed about the proposed removal of the pews.

23. A much more valuable appraisal is contained in the Statement of Significance. Mr Edgar comprehensively reviewed the pews themselves, their relationship with the other contents of the church, contemporaneous written and design materials relating to the pews and also looked extensively at other local churches by the same architect and featuring the same pew designs. In order to evaluate the significance of the pews he opens by a general consideration of the pew design itself, as seen replicated in this church and other local churches, and then considers their importance, both in comparison with the examples featured in other churches and in this church in the context of the other contents of the interior. The key parts of the very detailed and thorough Statement on these points are these:

*“As works of design and craftsmanship, the box pews [seen in other, named, local churches and featuring the same design as those in St John’s] may not be of special architectural (aesthetic) [interest] in terms of design, decoration or craftsmanship; nor are they special interest in terms of being nationally important examples of the type. They are relatively simple features of plain wood with no carving or other significant decorative feature. They are, however, of special interest because they form coherent groups of original pews, dating from the 1830s and early 1840s, thereby making a strong contribution to the understanding and significance of the buildings in which they are set...By contrast, the church of St John, Donisthorpe is not a particularly good example of a Stevens’ interior, or indeed of a contemporary or a late Georgian/early Victorian pre-Ecclesiological church or ‘preaching box’. There is no doubt that the pews are an example of late Georgian design: the date is clear. The designer was possibly the architect of the church, Henry Isaac Stevens, but, in view of the number of similar examples in other local churches, could have been the work of a local joiner. But the remaining pews represent approximately 45% of the original layout of box pews and a lower percentage of all the original seats and a lower percentage still of all the original contents. Nor is the arrangement complete or coherent as the central range and front row of seats has been removed or replaced. The loss of these*

*seats detracts from the significance of the remaining seating. For these reasons, it can be concluded that the box pews at Donisthorpe are not in the same grade of significance as those seen elsewhere. It is suggested therefore that the box pews at the church of St John are of some significance as they are elements whose values make positive contribution to the way the place is understood and perceived, primarily in a local context...*”

“[Removal of all current pews in the nave]:...*after a thorough assessment of significance, the remaining box pews are assessed as being of some but not considerable significance.*”

“[Removal of choir pews and other contents from chancel]: *The impact is seen as being low-moderate as none of the contents in the chancel is assessed as being of special interest and, at the highest, only of little significance.*”

24. I note a difference of emphasis throughout the papers with, on the one hand, the Parish and the expert, Mr Edgar, primarily evaluating the pews and stalls for merit in and of themselves, both in terms of originality and in comparison with other similar examples elsewhere. Whereas other consultees have sought, primarily, to appraise them for their significance as part of an ensemble interior. It is, however, of note that whatever the ultimate conclusion reached by the individual or body considering the issue, all points of view appear to start from an acceptance that the pews and choir stalls are “...*not, in purely architectural terms, of outstanding merit...*”<sup>15</sup>

25. It is, in my judgment, important to record the history of changes in the different viewpoints of the consultees. The changes in points of view illustrate the weight of consideration given to this matter by all concerned.:

25.1. The Victorian Society, for example, initially observed that the proposals went too far, “...*envisaging a clean sweep of the historic fittings to produce a big, bare, unarticulated space, eminently flexible but aesthetically barren and charmless*”<sup>16</sup>, and that in order to counter that effect the box pews (amongst other items) in the nave aisles (“...*a rare survival...*”) should be retained intact. However in due course, and following the detailed assessment of significance carried out by Mr

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<sup>15</sup> Letter from David Garrard on behalf of the Victorian Society, 8 December 2008, see also letter from Historic England dated 21 November 2013

<sup>16</sup> Victorian Society letter dated 8 December 2008

Edgar, the Society moved to no longer formally opposing the loss of the existing seating;

- 25.2. Historic England, although accepting that the pews were not of themselves of architectural merit, thought that the box pews were rare and pointed out some features of the other seating that they felt were of interest, including the curved and hooked bench ends to the free pews. Historic England was initially keen to see at least some of the box pews retained for “*a semblance of*” retention of the historic seating arrangement. However by July 2020 it had considered the new Statement of Significance and felt able to defer to the DAC without further objections;
- 25.3. The Senior Conservation Officer for North West Leicestershire District Council (“Mr White”) expressed concerns arising, in particular, from the observation in Pevsner that St John’s is “*the least altered of the contemporary lancet-style churches in the county*” and argued that the features of the side passages formed by the existing arrangement of pews should be maintained and that the box pews in the aisles should be “*substantially*” maintained, both because it was felt that their significance had not been sufficiently well understood or evaluated (in the 2014 Report) and in the more generally expressed interests of reducing the comprehensive and radical scope of the proposed re-ordering. The final substantive correspondence from Mr White reiterated these views, based on discrepancies between the 2014 Report and Mr Edgar’s Statement of Significance. However, the suggested discrepancies were (I find) subsequently shown not to be of substance by a response from the Team Vicar in a letter to the DAC dated 27 July 2020;
- 25.4. Throughout, the CBC’s focus (in an approach endorsed from the side-lines by the Ancient Monuments Society) has been to ensure that a detailed and thorough appraisal of the significance of the seating was carried out, understood and evaluated in order to guarantee that any assessment of its significance would be accurate. The CBC ultimately expressed itself as “*satisfied that the new statement of significance is adequate for the purpose* [of a properly informed consideration

of the *Duffield* questions]...”<sup>17</sup>, but (i) observed that the Statement of Significance did not address the significance of the central block of benches as fully as its assessment of other elements considered in the Statement and (ii) commented that the pews (and other items) should be made available for re-use elsewhere, including by offering to other churches. Dealing briefly with the CBC’s observation that the assessment of the significance of the central row of benches was less thorough than the rest of the assessments contained in the Statement of Significance, I consider this to have been remedied when the Parish followed up on this issue with its expert, Mr Edgar and received information that the date of the middle set of pews is not known but that he would place them “*either after 1849 but before 1865, or probably 1888-189. They are of routine design, similar examples of which are found in the catalogues produced by church furnishing companies*”. This is in keeping with Mr Edgar’s assessment of the pews generally in his Statement of Significance, with the listing entry and with the conclusions of other consultees (for example Historic England in its earlier letter dated 23 September 2019 “*...the box pews down the sides of the church...are thought to be more significant than the central block of seating*”).

26. It is, in my judgment, important that despite the variations in the views as to the significance of the seating and the various degrees of preference that some or all be retained, all consultees<sup>18</sup> have ultimately moved to a position where there are no longer any active and unresolved principled objections being pressed in respect of the proposed removal of the internal ground floor seating of the church.

27. I also note, in relation to the concern that the effect of the proposed removal of the pews is to denude the church of a key period reference, that the proposals do not, in fact, envisage a total loss of the Victorian seating in the church. It has, at all times, been envisaged that the Victorian gallery with its fixed seating, will be retained.

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<sup>17</sup> 28 July 2020

<sup>18</sup> NB I also note the views of the Senior Conservation Officer but his concerns for retention of box pews appear to stem from a reading of the two reports which has, in my judgment, subsequently been answered by the Team Vicar’s input to the DAC.

28. Taking all of the above factors into account in my own appraisal of the significance of harm, I am mostly closely aligned with the CBC's assessment<sup>19</sup>, although I would go a little further and conclude that the impact of removal would be "*moderate to high*". I interpret this as amounting to a degree somewhere between "less than substantial" and "substantial".
29. I arrive at this view principally because at least some of the church's striking features relate to the current internal ordering and assembly of the existing contents together with the visual impact of the existing arrangement of the side passages. The ordering is characteristic of an auditory church (or "preaching box") interior and is perhaps also of historical note because it represents a feature of the early phase in the evolution of the architect Henry Isaac Stevens from Classical architecture and towards 'proper' Gothic revival architecture. However, those features are tempered by the absence of any suggestion, let alone any evidence, of special merit in the design or execution of the pews and choir stalls themselves and further by the conclusion, which I accept from the detailed and considered reasoning in Mr Edgar's report, that the majority of the church's significance derives not from the features of the interior but from the design and unchanged nature of the exterior of the church. Mr Edgar describes the exterior of the church as "*...a rare thing: an almost intact example*" and concludes that "*If the contents were removed, then St John's would still meet the criteria for inclusion in the Secretary of State's list of buildings of special architectural or historic interest.*". In addition I take account of the fact that 45% of the box pews have already been removed and that there is to be the retention of some Victorian features and seating because the gallery will remain. The balance of these factors leads me to the conclusion that removal of the seating will, on the continuum of impact, harm the existing character of the church to a moderate to serious degree.
30. Turning to the question of "*How clear and convincing is the justification for carrying out the proposals?*" I find the justifications provided by the Petitioners to be compelling for the reasons which follow.
31. The community which St John's serves has been undergoing a successful regeneration since the loss of its mining work and is flourishing. Numerous examples of village activities, children's and youth groups, community action and support groups, events, classes, foodbank and fundraising opportunities, performance-based activities, all wishing

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<sup>19</sup> Letter from Guy Braithwaite 28 July 2020

to be able to use the church - but unable to or limited because its layout or capacity - have been identified and a hefty dossier of evidence has been compiled which strongly supports this. Many of these activities are highly significant to the community, many of them hold the potential for the church to raise money both for itself and for others. The indicated need has not been gainsaid by any of the consultees, nor queried in the same way as the assessment of significance has been.

32. It is plainly significant that there is no longer a church hall in which to carry out any of these activities and events. They are now frequently taking place in various other local spaces, many of which are either unsuitable (for example the local pub or a small community meeting room which is principally in use as a football team changing room) or have reverted to commercial use which has restricted the ability for other groups to use them. The interior of the church is, in real terms, the only space available when considering the creation of a suitable environment for these activities.

33. In addition to the need to provide suitable space for community activities, numerous problems with the day to day use of the church are identified<sup>20</sup> and, again, are not, or not substantially, disputed by the consultees. These include the following:

33.1. I accept that the present fixed east-facing arrangement means that there is no scope for using the church for different forms of worship nor for flexible formats such as might be required for music, for example. The current position is that the church cannot readily and comfortably be used for anything other than traditional format worship with the congregation seated in rigid rows and the minister remote in the pulpit, which is not a style well-suited to the needs of the congregation or the modern community. There is an inability to lead interactive services or to engage with children or new members of the congregation;

33.2. Significant discomfort experienced by church-goers when sitting in the pews. One example cited in the Statement of Need related to a recent funeral held in the church where the chief mourner was in a great deal of pain caused by sitting in the restricted space of the pews following a knee replacement;

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<sup>20</sup> In the Statement of Need

- 33.3. The boxed sides of the pews are so high that children are unable to see over the top, becoming bored and fidgety - a problem for both family services and attendance at the church by the local Church of England school;
- 33.4. The elderly and infirm find it difficult to access the pews because of their narrowness and the presence of a timber platform;
- 33.5. The combination of a lack of a central aisle coupled with the narrowness of the side aisles and the height of the boxed pew sides has been known to deter engaged couples from choosing to marry in the church. The bride cannot be seen entering the church and the majority of her dress is invisible to the guests during the service;
- 33.6. There are similar issues of visibility deterring organisers of funerals and baptisms from choosing the church, as the coffin cannot be seen entering or departing the church at funerals, and at baptisms the central block of pews blocks all sightlines to the font.
34. Removal of the pews and replacement with the preferred padded seating as proposed undoubtedly solves the problems identified above by creating a clear and flexible space. However to justify such an extensive and transformative change, it is, in my judgment, important to understand whether or not the Petitioners have carefully considered other, less radical, options and that a realistic and honest appraisal of those still leads to the conclusion that the current proposals are the right ones.
35. Over the course of development of the proposals before me, many different iterations of layouts, involving greater or lesser degrees of change and removal of elements of seating, have been proposed and carefully considered. A formal options appraisal has been carried out and is included in the Statement of Need. There has also been specific consideration of alternatives either raised or revived by the consultees, in particular the possibility of relieving the pressure on the interior of the church by introducing an extension to the church<sup>21</sup>, or to proceeding with the removal of the pews but via a stepped approach

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<sup>21</sup> Letter dated 2 August 2017 from the CBC.

involving leaving the box pews down the side of the church in situ (a suggestion from Historic England).

36. The suggestion of introducing an extension is significantly problematic. Not only does the suggestion cut across one of the cornerstones of the various consultees' objections, namely the core of the grade II listing (i.e. the unique interest to be derived from the largely unaltered exterior of this contemporary lancet-style church, *per* Pevsner & Williamson). Mr Edgar points out that an extension would involve the loss of windows and disturb the symmetry of the elevation and the clean, geometric lines of the design and would greatly degrade the significance drawn from the exterior. An extension is also beyond the reach of the parish financially. In addition, leaving the existing interior and current ordering in place while new activities were moved into an extension would, in my judgment, be likely to result in a wholly unsatisfactory division between a living and well-used new area of the church and a museum-piece area lacking in utility.
37. The stepped approach of retaining the side box pews has been rejected by the parish on what I am satisfied is a principled basis, i.e. because that approach leaves unsolved a number of significant problems including: only leaving room for a limited number of chairs; leaving in place uncomfortable and unpopular seating; the failure of that half-way solution to address the problematic liturgical emphasis in the building; issues around storage space for chairs which need to be stacked to the sides; an insufficient amount of space for a suitable children's area.
38. I am satisfied that the Petitioners have sufficiently and carefully assessed all reasonable alternative ways forward before reaching the conclusion that the only solution which meets their needs is the wholesale removal of the current ground floor seating.
39. As to the proposal to replace the pews with Alpha padded chairs, the Victorian Society objects to this because it states that a good quality, timber framed and entirely un-upholstered chair creates a more appropriate interior appearance in listed churches, as reflected in the CBC's statutory guidance on the issue (although the Parish point out that this guidance is aimed more specifically at replacement seating in Grade I and Grade II\* churches). In the Victorian Society's view un-upholstered timber framed chairs of good quality design are "*just as comfortable (and often more comfortable)*" than upholstered



versions and many are lighter and more easily stackable than the Alpha chairs proposed. The points the Society makes contain much requiring serious consideration.

40. I am, however, satisfied that the parish has taken these points seriously, given them due consideration and that the explanation set out comprehensively over several pages in the Statement of Need and revisited in many other evaluating and comparison documents I have been provided with, shows that the choice of Alpha chairs in this case is justified. I am particularly struck by the very detailed explanation contained in the letter of the Team Rector dated 2 September 2020 showing the lengths the parish has gone to in order to identify the most appropriate chairs taking all of the points into consideration. In it she describes the multiple samples of different types of chairs that had been ordered from manufacturers and tested extensively up to the point of submitting the Petition. They did not stop there. The parish remained concerned to choose the most appropriate seating. Upon notification of the Victorian Society's continued objection to the proposed seating it ordered further samples and (despite the intervention of COVID-19 and attendant restrictions) found twenty-two individuals of varying ages and statures to test these additional models. The feedback produced was that although the Victorian Society's points about lightness and "stackability" of wooden chairs was correct, the wooden, un-upholstered seats were uncomfortable, particularly for the more elderly and lighter-framed testers. It was also found that the fabric of the upholstered chairs "held" people in position more securely, with the best effect being given where both base and back were upholstered.
41. Although the introduction of upholstered chairs will have a more significant effect in terms of colour, texture and character on the interior of the church, given the bold nature of the re-ordering necessitated in this case and the church's aspirations which involve plans for seated events lasting at least above an hour (e.g. drama and music performances) I am, on balance, satisfied that the choice of Alpha chairs with both padded seats and backs is the right one for this church. The introduction of this type of seating will, ultimately, be consonant with the modern effect of the post-reordering interior of this particular church. I am thoroughly satisfied that the choice of replacement seating has been well researched and justified in this case. It is also noteworthy in the context of the current reappraisal of so many matters engendered by the COVID-19 pandemic that these will have the advantage over pews or bench seating of allowing for flexible, socially distanced arrangements. They are easily cleaned and disinfected and, by avoiding the bringing in of cushions from home

to compensate for unforgiving seats (which is evidenced by the Team Rector as a current phenomenon), avoids an additional potential vector for infection.

42. In summary, the proposals have been carefully reviewed and modified by the Petitioners on several occasions over the course of their many years of development, at all times with an open mind. All iterations that have been considered have been approached with the same consistent underlying purpose of providing comfort, flexibility of use, cohesion and modernity to enable the church to appeal to the current generation and the community it serves. The ability to do so is lacking in the existing constrained, tall and narrow configuration of the fixed, unpadded seating. The purposes the church has aimed for in seeking to change those constraints have never deviated, although I have also noted its willingness to consider, in depth, alternative ways of achieving those purposes. The constancy of the parish's objectives and its responsiveness in reviewing and testing areas of concern without losing sight of the objectives indicates the importance of the matters set out in the Statement of Need. It is these objectives that have driven the Petition and they amount to justifications which I find to be fully considered and compelling.

43. *"In light of the strong presumption against proposals which will adversely affect the special character of a listed building, will the benefit outweigh the harm?"* The Petitioners have, in my judgment, shown that they and the PCC have evaluated in detail the benefits the planned changes to seating will provide and I find both that those benefits will follow from the proposed changes and that they amply justify the proposals. The benefits will include (amongst others) an increase in the flexibility of worshipping styles and improvement in the interaction with the congregation; support to the ministry delivering to a growing and regenerating community; the potential for greater use of the church building in comfort and with proper accessibility. These are powerful benefits, of significance to the church and the community it serves. None of these purposes is achievable without, in the process, harming the present features of the fixed seating by its removal and replacement with an alternative that this particular community and congregation find properly usable. The objections and challenges that have quite properly been raised by the consultees and the responses to these have led to a future-looking proposal which has been thoroughly evaluated, deeply considered and properly tested. In doing so the Petitioners have, in my judgment, ensured that benefits envisaged will be achieved to the maximum extent. I am satisfied that those benefits significantly outweigh the harm in this case.

44. It follows that I will permit both the removal of the seating and the introduction of the Petitioner's preferred seating.
45. I will add a condition to the grant to the effect that a careful recording of the interior is to be made prior to making the changes. I will also add a further condition to the effect that any usable furnishings shall be advertised to other churches via the central contents register for a period of two months<sup>22</sup> before disposal (which in my view takes account of the lack of significance (when taken in isolation), deterioration in quality and lack of comfort of the seating, and therefore the degree of likelihood of meaningful interest, whilst allowing a proportionate amount of time for any such interest to be expressed). This is in accordance with the CBC's indication (with which I agree) to the effect that this route would be appropriate but also taking account of the parish's research (via a trusted local craftsman) into the possibility of recycling materials from the fixed seating elsewhere in the church, which was found to be unworkable in light of the poor quality of the wood and the deterioration due to woodworm infestation.

#### *Removal and disposal of pulpit*

46. The reordering proposes the removal and disposal of the pulpit, with the fascia to be retained and mounted on one side of the church walls. The loss of the pulpit is specifically objected to by the Victorian Society. Historic England also said that it would wish to see it retained and incorporated into the plan for reordering even if re-sited. The CBC expressed the view that the pulpit is of "*solid quality with a handsome brass rail*" and hoped it might be retained. It did not favour retention of the fascia as a display panel.
47. The most comprehensive of the comments regarding the pulpit are those of the Victorian Society. Its particular concerns regarding removal and disposal are, in summary, these<sup>23</sup>:
- 47.1. It is a "*...dignified and aesthetically pleasing piece, which contributes positively to the character and appearance of the interior, and to its ensemble value*";

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<sup>22</sup> After which the central contents register should be notified to remove the item(s) from its listing.

<sup>23</sup> Drawn, in particular, from the email from James Hughes to Rupert Allen dated 05.08.20

47.2. Although accepted by the Society that it is “*not a sophisticated piece of design*”, it nonetheless “*has a solidity and richness which make a definite contribution to the interior*”<sup>24</sup>;

47.3. It is referred to specifically in the list description;

47.4. It has significance as a memorial.

48. The PCC’s position in relation to these concerns is, in summary, as follows:

48.1. Mr Edgar considered the pulpit using the CBC’s guidance for assessing its significance and concluded that the pulpit is of “*little significance*”;

48.2. Mr Edgar’s particular observations of the pulpit in reaching his conclusion as to its significance include the following: the pulpit “*...is not part of the original design or in its original location...is not mentioned in the Buildings of England volume, which is usually comprehensive in its inclusion of church furnishings of note...is not special in terms of aesthetic (architectural) interest...is not the work of an artist or craftsmen of international, national or regional [repute] and, in terms of design, probably not the work of an artist...*”; “*Aesthetically it is not an imposing piece: the proportions are awkward probably because the marble columns were designed for a narrower structure; the decorative carving, especially the frieze, is straightforward but not special; the central panel is plain with the cross set tightly within the arch*”; also that the pulpit (in its enlarged state) post-dates works of improvement undertaken between 1888 and 1890 and is therefore not associated with any particular historical change to the church;

48.3. Mr Edgar assesses the pulpit’s value as a memorial to the Reverend James Dunbar as “*...of limited historical importance*”.

49. The justification put forward by the Petitioners for the removal and disposal of the pulpit is that it is an impediment both to its vision of the interior and to the style of worship which

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<sup>24</sup> 8 December 2008

works for its modern congregation. The pulpit is a very large structure occupying a lot of space and, in the Petitioners' view, it dominates the interior, the Chancel in particular, in an unattractive way (it is described as looking like a "gun turret" with the preacher towering over the congregation and as being an "ungainly" amalgam of two phases of work). The pulpit dates back to a time when "...the preacher did indeed stand 6 feet above contradiction, looking down on the congregation. That is not what where we want to be in 21<sup>st</sup> century worship". No real alternatives for its use are possible and standing on the chancel step means that the speaker cannot easily be seen. It has, in consequence of these features, had little practical utility for many years, and the Petitioners therefore strongly disagree with the Victorian Society's view that the pulpit makes a positive contribution to the interior.

50. Assessing all of the comments and materials before me through the lens of the *Duffield* questions, I reach the following conclusions:

50.1. First (in relation to questions one and three, question two not arising), if the pulpit were to be removed it would result in harm to the significance of the church (on the basis that the pulpit is an "element whose values contribute to the way the place is perceived...in a positive way" (per Statement of Significance p21)), but that such harm would be minimal (such positive contribution is assessed by Mr Edgar as being "very limited"). No reasoned contrary view has been advanced on the basis of any evidence or analysis by any of the consultees and I therefore accept Mr Edgar's clearly articulated assessment of the significance and contribution of the pulpit;

50.2. As to the fourth question (requiring an evaluation of the justification for carrying out the proposals), where a pulpit in a C19th church is of at least some artistic merit, the guidance to be drawn from the decisions of other Chancellors in other dioceses is that a compelling justification is needed in order to remove it (see for example *All Saints, Ockbrook*<sup>25</sup> and *Re Holy Trinity, Mapperley*<sup>26</sup>). I consider that there is a compelling justification in this case. It arises from the intractable dissonance between the dominance of this particularly large and awkward pulpit in this interior,

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<sup>25</sup> [2021] ECC Der 1

<sup>26</sup> [2020] ECC Der 1

and the totally opposite style of worship that the parish finds effective and wishes to develop, but can only partially achieve in the shadow of the pulpit;

- 50.3. It is not, in my judgment, possible for the desired style of worship and the physical impact of this pulpit, designed for unassailable preaching from a height, to co-exist effectively in this church (even if it were possible to relocate the pulpit elsewhere, which has been considered but found to be practically and liturgically impossible to achieve satisfactorily<sup>27</sup>). Even though it is no longer used to preach from, its presence draws the eye, blocks sight lines to the east end of the church and it impedes both the physical space available to and the presence of the preacher from other locations;
- 50.4. Furthermore, to permit the pulpit to remain would be to undermine the essence of the proposed re-ordering. It would afford disproportionate weight to the importance of a redundant and (in this particular case) intrinsically insignificant object over the ability of the church to develop its connection with the local community in the way it has ascertained to be most effective;
- 50.5. In this case I am, in any event, satisfied that this pulpit in fact lacks artistic merit. It follows that even if the justification for removal had been less compelling, it may yet have been permissible. A cogently reasoned expert report has concluded that the pulpit is not the work of an artist or craftsman and no consultee has gainsaid this conclusion. No intrinsic worth or merit on the part of the pulpit has been identified anywhere in the papers before me and the limited interest pointed to by the Victorian Society appears to derive from the fact that it is part of the accretions of the church and forms part of its present ensemble interior<sup>28</sup>;
- 50.6. As to the balancing exercise required of me by the fifth question in *Duffield*, I am satisfied that conducting that exercise results in a conclusion that the proposal to remove and dispose of the pulpit should be allowed. A pulpit is not mandated by Canon law if it is not actually required (Canon F6). In this case the fact that the pulpit has been unused for some time is evidence that it is not required. I have concluded that the harm occasioned by this part of the re-ordering proposal is minimal. The

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<sup>27</sup> Letter from Revd. Canon Vivien Elphick to DAC Secretary, dated 25 July 2017

<sup>28</sup> I therefore distinguish this from the situation in e.g. *Re All Saints, Ockbrook* where Timothy Clarke Ch. found the pulpit to be a “significant piece” and refused permission to remove it.

justifications are well made out and the benefits that will follow (in particular the physical space, lightness and sense of cohesion with other elements of the reordering that its removal will bring, together with the ability to focus freely on worshipping in the style which benefits the church most without the need to work around a physically imposing reminder of a bygone era of preaching) in my judgment significantly outweigh the level of harm caused by its removal.

51. I note with approval the CBC's concern to ensure that intact period furnishings are offered to other churches. I also note that the CBC discourages the Petitioners' proposal to save the fascia of the pulpit and to mount it on one side of the church walls. However in light of the extent of the proposals to remove historic aspects of the interior and the concerns of consultees that the resulting space may feel "barren and featureless", in my judgment the addition of a wall display making direct historic and striking reference to the past is likely to add depth and texture to the church interior. It will also assist in marrying together the retention of the C19<sup>th</sup> gallery and altar and the intended Vis-box (or similar) display of the history of the church's interior which the parish intends to instal and maintain. I therefore permit the Petitioners to do so, subject to the following conditions. In respect of the disposal I will impose a condition that, first, reasonable enquiries to locate and contact the relatives of Reverend James Dunbar shall be made for a period of up to 6 weeks and that the whole pulpit, including the fascia, or any part of the pulpit they would like, be offered to them if they are located. In the event that none are traced or that they do not wish to take the pulpit or any part of it, it shall be advertised to other churches via the central contents register for a period of two months before disposal. In the event that the pulpit is not rehomed via the central contents register the fascia shall be removed before disposal, and mounted inside the church.

#### *Removal and disposal of lectern*

52. It is also proposed to remove and dispose of the brass lectern. In its letter dated 4 November 2019 the CBC referred to the lectern as "...a particularly fine piece" (a view echoed by the Victorian Society<sup>29</sup>), although its later letter dated 28 July 2020 appeared to accept the principle of disposal subject to ensuring that it was made available for reuse elsewhere.

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<sup>29</sup> 5 August 2020

Neither the CBC nor the Victorian Society have identified the particular features of the lectern that make it, in their view, a “*particularly fine piece*”.

53. In the Statement of Significance, Mr Edgar concludes that the lectern is one of the later additions to the fittings, dating it from 1890. His detailed assessment of the individual and ensemble elements of the interior of the church led to his conclusion that only the font could be characterised (using the CBC’s grading system) as being, at highest, of *some* significance, in contrast with the rest of the contents, including the lectern, which he assesses as being of *little* significance.
54. In assessing the proposal to remove and dispose of the lectern under *Duffield*, I accept the views of Mr Edgar based as they are on a thorough and detailed review of all of the interior elements of the church, both individually and as an ensemble. I therefore conclude that the lectern is of little significance. Despite its low significance, the fact that two of the eminent and experienced consultees have conveyed their impression of the lectern as attractive in appearance leads me to conclude that its removal would nonetheless harm the church. In my judgment this harm would be only of a low level in light of its lack of significance and the lack of any particular interplay of note with any other elements of the interior or structure of the church.
55. As to the justification for removing and disposing of the lectern, I am satisfied that the Petitioners have made out a sufficiently convincing case. The reasons and justifications for removing it are principally practical, i.e. that it is very heavy and therefore difficult to move on a regular basis. The ambitions the parish has for the church include regular, flexible use of the dais for services, performances and other activities. These require objects on the floor to be easily moved and not fixed or weighted to the ground. The parish also states that is difficult to keep clean and polished and is at odds with the modern and more homogenous appearance that the re-ordering proposals envisage.
56. These justifications may not be as weighty as those that affected consideration of the pews and the pulpit. However they are very clear, authentic and, particularly in light of the fact that I have concluded that the harm caused by the disposal of the lectern is not serious, they are, in my view, very convincing. I am similarly satisfied that the benefit to the parish of



removing the lectern will greatly outweigh the harm caused by allowing the flexible use of the dais in the exciting ways envisaged.

57. It follows that I will permit its removal and disposal, subject to a condition regarding the offering of the lectern for use via the central contents register.

*Removal and disposal of pipe organ, blower and panelling; introduction of a new Makin Rydal organ*

58. The organ is a pipe organ situated (since 1891) in the north end of the nave (having originally been installed in the gallery). Most of the consultees have little to say about the proposal to remove and dispose of it and to replace it with a new electrical instrument. The exceptions are HE and the CBC, who do not support its removal but would support its re-siting. In a letter to the DAC dated 2 August 2017, the CBC said “...*the organ is a sound instrument in a handsome case...*” and expressed the view that it would be better to move the organ and use a CCTV link, which it was felt would be cheaper and more durable than the proposed replacement with an electric organ.

59. A thorough and balanced organ report was prepared by Simon Headley on 7 February 2014 after completion of a survey by him of the instrument and its setting. Following his detailed appraisal of all of the key aspects of the organ, Mr Headley concluded that “...*the organ is of average, workmanlike quality.*”

60. In a later letter, dated 4 November 2019, the CBC endorsed Mr Headley’s report, but reiterated the view that by relocation of the organ and use of CCTV or webcam to supply the organist with prompts, the organ could usefully be kept as part of the reordering.

61. The parish want to remove it completely and has detailed a range of reasons for wanting to do so in its Statement of Need. The parish has, in keeping with its thorough and fair approach to the consultation process generally, investigated in some detail the possibility of relocating and restoring the organ. I have seen detailed correspondence with the pipe organ specialists Cousans of Leicester, reviewing options and pricing for alternatives to removal. However the balanced conclusion at the end of these investigations has been that the quotes (which exceed £50,000) together with the relatively expensive ongoing annual

maintenance and tuning charges make this, in the long term, too expensive an option for the parish. More importantly, it fails to address a number of key concerns and needs that the parish have cogently identified in respect of the organ. These are, in particular, the reduction in use due to an increase in families and choirs preferring to bring their own recorded or live instrument music with them when using the church; the fact that, when organ music is required it would be very helpful to the parish if the instrument could be played by a pianist instead of merely a trained organist familiar with the pipe organ; and the fact that the organ occupies a lot of space and, like the pulpit, has a dominating effect on the interior, blocking light and rendering the chancel dark.

62. In assessing whether harm would be caused by its removal and if so the level of the harm (*Duffield* questions one and three), I note not only the unchallenged conclusion of Mr Headley that the instrument is of “*average, workmanlike quality*”, but also the overlapping comments of Mr Edgar, who reviewed the significance of the organ and its contribution to the significance of the church in his revised Statement of Significance. In that document Mr Edgar noted that “*The organ is not mentioned in the Buildings of England volume, which is usually comprehensive in its inclusion of church furnishings of note. Neither the organ nor its case is special interest in terms of aesthetic (architectural) interest or as a significant organ mechanism. It would appear not to be the work of an artist or craftsman of international, national or regional interest. Applying the grading system...the organ is of little significance as it is an element whose values contribute to the way the place is perceived in a very limited but positive way.*” I accept that assessment of the significance of the organ in this church and conclude that some harm would be caused by its removal, not least because it is an imposing visual feature of the present interior of the church, but that such harm would be of a very low level in light of the relative lack merit or significance of the instrument together with the overall lack of utility and contribution, other than as part of the ensemble interior, that the organ now makes to the church.

63. I have already set out the justifications the parish have carefully noted for the removal and replacement of the organ, which have been accompanied by meaningful efforts into assessing the options for keeping it and relocating it within the church building. I am well satisfied (per *Duffield* question 4) that these are clearly and articulately expressed and amount to good and substantial reasons for removal.

64. The balancing exercise (*Duffield* question 5) of harm against benefits falls, in my judgment, substantially in favour of permitting the removal and replacement of the organ as requested in the Petition. In particular the increase in use of a new electric instrument, the more accurate and proportionate representation of the importance of organ music in the context of this community, the removal of maintenance costs, the space savings to be gained and the increase of light into the church combine to outweigh the small degree of harm occasioned by the loss of the original organ.
65. I will therefore permit the removal and disposal of the pipe organ, blower and panelling and its replacement with a new Makin Rydal organ, subject to the conditions intimated by the CBC, namely that it should be offered via the central contents register (for a period of two months) and the PCC should make reasonable enquiries over the same period to identify and offer the pipe organ to other suitable potential owners, failing which it may be disposed of as the PCC sees fit. No major building works shall commence until after its removal.

*Font*

66. The font is an octagonal font on a square base set into the centre of the easternmost bench of the central row. It was assessed by Mr Edgar as the most significant of the interior contents, being of “*some significance*” according to the CBC grading system.
67. The font is not regarded by the parish as an aesthetically pleasing element of the church (describing it at one stage as “*...ugly...not a decorated font but very plain stone of no real aesthetic value*”). Historic England describe it as a “*...rather heavy ‘muscular’ form, made up of shelly limestone*” and Mr Edgar notes that it is not special architecturally or artistically speaking, with no particular interest or history in terms of its design and execution.
68. The plans for the font have changed over time. In March 2019 Mr White (Conservation Officer for NW Leicestershire) wrote observing that the original plan to move the font to the front of the church appeared to have changed to a plan to remove the font altogether, which he objected to. The plan to remove was confirmed by the parish at the time, but subsequently has been changed back to a plan to retain and re-site it.

69. Despite its aesthetic drawbacks, the parish heeded the concerns of the consultees about removing the font. As with other areas where objections have been raised, the plans were carefully revisited, tested and restructured by the Petitioners to see whether retention and re-siting could work instead. In the case of the font, unlike other elements of the plans, the parish have been able to find a re-siting solution that enables it to work satisfactorily alongside other changes. Therefore by 2 September 2020 the plans to remove it had been altered back to a plan to re-site it, albeit in a slightly different location to that proposed originally. It is now proposed to relocate the font to the north side front of the church on a lower “step” down from the dais<sup>30</sup>. This solution avoids problems of obstructing the accessibility ramp and blocking circulation around the building and will allow family and friends to congregate around the font, bringing it back into regular use for baptisms.

70. I consider that this re-siting solution, which accords with the desires of all of the consultees to retain the font within the church, occasions no harm to the church<sup>31</sup>. In view of that conclusion, I note the ordinary presumption in favour of things as they stand and that the presumption can be rebutted, more or less readily, depending on the particular nature of the proposals<sup>32</sup>. As to that, I consider that it is rebutted in this case given that the proposals regarding the font are cogently justified and are likely to be of great benefit in terms of increasing the number of baptisms where the font will be in regular use. It is also noted that Mr Edgar’s research indicates that the original font was located at the front of the church, such that the re-siting of this font to the front brings in a fitting and nuanced echo of the past to the re-ordering. Accordingly the proposed re-siting of the font is permitted.

*Other aspects of re-ordering (please see attached Annex)*

71. I will not overburden this already long judgment by setting out the detail of my *Duffield*-based assessment of all of the remaining individual elements of the proposed changes (which are listed for completeness in the attached Annex). No consultee or expert charged with assessing the impact of the proposals has identified any particular significance to or affected by any of these remaining changes. I have, in any event, approached each in the same way that I have set out in respect of the more contentious elements, above, and found

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<sup>30</sup> It is worth noting that this re-siting would not be possible if the pulpit were to be retained.

<sup>31</sup> Per *Duffield* question 1.

<sup>32</sup> Per *Duffield* question 2.

that no harm to the significance of the building would result from any of the remaining proposed changes. In many cases the proposed changes represent significant enhancements. The consultees agree that these changes are uncontroversial (save for some limited and specific observations, which I deal with below.)

72. Moreover each of the remaining individual elements of the proposed changes is clearly and strongly justified by the parish in the Statements of Significance and Need and across multiple detailed responses from the Team Rector. The need for the various improvements and changes is therefore well made out in each case and is, in most cases, obvious, sufficiently rebutting the presumption in favour of retaining the status quo.

73. Some particular areas elicited comment and require addressing:

*Flooring:*

74. The Chancel tiles are (mostly) 4 inch plain red quarry tiles covering approximately 36 metres squared of the Chancel floor and currently covered with carpet. The tiles date from the 1891 alterations to the church when the majority of the Chancel dais was introduced. The CBC would like to see these salvaged and reused elsewhere in the reordering scheme, if possible.

75. In response to the CBC's concerns the parish investigated the possibility of doing so, lifting the existing carpet overlaying them and reviewing their condition. The carpet is stuck down over the tiles and attempts to lift it and the adhesive proved impossible without further damaging the tiles, especially because the tiles themselves are strongly bonded to the underfloor concrete or screed. There were cracks and surface damage which the parish attributes to a combination of age, damp and adhesive. It is commented that they are split at the edges, cracked across and unevenly laid. The parish also argues that there is no particular quality in these tiles to justify what are likely to be wholly unsuccessful attempts to salvage reusable tiles.

76. I note that there is no evidence to suggest that the tiles are particularly noteworthy and I also agree with the parish in relation to the likely damage to the tiles if they are detached from the surfaces to which they are currently bonded. I do not, therefore, require that any further attempts to salvage them be made.

77. On a related note regarding flooring, I note the discouragement by Historic England of the use of carpeting together with the very helpful observations made by it regarding the need for good quality, natural carpeting in the event that it is to be used. I am satisfied that the parish has sufficiently accounted for this in their planning and that there is to be adequate sub-floor ventilation in addition to good quality carpeting which will avoid the potential for damp which Historic England have properly raised for consideration. The carpeting in any event replaces existing carpet in the church and therefore its replacement with an improved version does not cause any harm to the appearance or fabric of the interior.

*Heating:*

78. The parish has diligently investigated many alternative systems of heating, including electrical systems, wet underfloor heating, a wet surface mounted pipework system (in response to observations made by Historic England) and other solutions, especially environmentally responsible ones including, for example, geothermal rods, heat exchange, biomass boilers, solar panels and photo-voltaic cells. A specialist heating consultant has been engaged during the process of preparing this Petition. Quotes and specifications for different types of heating solutions have been included in iterations of the proposals from time to time. However, the final version of the reordering scheme before me proposes the use of an oil-fired boiler.

79. Ultimately it is cost that has forced the Petitioners' hand in relation to the heating system to be used. I cannot fault the Petitioners for the depth of their research and the efforts they have gone to to try to incorporate alternatives in line with General Synod's commitment to a target of net-zero emissions. The use of an oil-fired boiler is not a forward looking, zero-carbon heating system in line with that commitment. It is, however, the only feasible and affordable outcome for this parish on the back of careful and considered research. I consider that the Parish's diligent and dogged investigation of heating alternatives, the cost and resources constraints which affect it, its complete engagement with both the DAC and its heating expert, have been in line with the CBC's 2020 "Review of heating guidance; Principles". That document places emphasis on the circumstances of the individual church and the need to engage in best efforts according to the means and needs of the particular church. The result is an efficient oil-fired boiler using low-sulphur fuel which will improve the church's current low energy performance appreciably, although regrettably meaning

that attaining net-zero carbon emissions unfortunately remains out of reach for the church at present.

80. I am satisfied that the parish remains very much alive to the need to increase energy efficiency wherever possible and in this regard I am pleased to note that they are selecting energy efficient materials in the proposed works (including, for example, incorporating LED lighting) with these in mind. I have no doubt that in the future the parish will keep energy use and environmental impact under review and act further in pursuit of these aims wherever possible. With this in mind, although with some regret given the importance of the net-zero objective, I recognise both the constraints of resources and the expert input into achieving the best choice of heating given these constraints, and I am content to allow the plans to proceed using the oil fired boiler system indicated.

*Placing altar on castors*

81. The reordering envisages that the original altar will be retained, but brought forwards from its present location. The CBC commented that it was satisfied with this proposal, but recommended that its re-siting be trialled initialled and then made more or less permanent once an exact suitable location had been identified, rather than a re-siting on castors as is proposed by the Petition works. The PCC prefers the addition of castors to the altar in order to allow it to be moved back and forth, especially to nearer the east wall in the event of concerts, plays and children's performances. The PCC have observed that the altar is too heavy to lift and it is for that reason that castors have been arrived at as the solution to the need to move it.

82. Having considered the reasons given for potentially needing to move the altar I consider those to be sound. Furthermore, a key driver in the rationale for the proposed works is the need for to maximise the flexibility of the internal space and to enable the church to bring in income from activities. It seems to me be highly likely that moving the altar from time to time will maximise the way in which those activities can be given expression. It is obvious that the ability to move the altar in a safe and dignified way is better in line with achieving that purpose than placing it in a fixed location and perhaps then either compromising what can be achieved in the remaining space or needing it to be moved from time to time without the benefit of an easy and slick means of doing so.

83. Accordingly I am satisfied that the addition of castors to the altar should be permitted.

#### *Roof timbers paint stripping*

84. In relation to redecoration, the CBC commented in its letter to the DAC dated 28 July 2020:

*“The proposal for decoration indicates that the surfaces of roof timbers are to be stripped and repainted. Unless the existing paint is damaging the wood, the necessity of stripping should be reconsidered with a view to preserving earlier surface treatments under the new paint scheme.”*

85. I am reassured by the parish’s response to this sensible point which indicated that it is not intended to strip all paint from the roof timbers, only loose paint, and where existing paint provides a sound base for redecoration it will be retained, with the surface being suitably prepared for redecoration. This seems to me to be entirely in line with the CBC’s observation.

#### *Lighting*

86. Similarly, it is a further indication of the parish’s responsiveness that the CBC’s observation that the proposed lighting units should be reviewed by the architect for suitability of design and aesthetic was heeded and responded to by the Team Rector, in fact going further and ensuring that the proposed system met the approval of the DAC’s specialist lighting advisor as well.

#### *Conclusion regarding balance of works*

87. I have taken all of the foregoing points into consideration as part of my *Duffield*-based assessment of the each of the balance of works listed in the Annex to this judgment. Some of these works are quite large in scale such as, for example, the formation of a new vestry, creation of new WCs and a new servery. Others are more minor or straightforward, for example filling in an old coal chute and installing a new boiler house entrance. None, however, in my judgment, will harm the significance of the church, or not to any appreciable degree. As I have already stated, I have found that the cogent justifications for them and the obvious benefits that they will bring – both of themselves and as part of the



whole package of modernisation and re-energising of the church<sup>33</sup> - tip the balance from leaving matters as they are in favour of allowing the works.

### **Composite effect of works**

88. Although at risk of being repetitious of aspects I have already considered in relation to each of the elements of the proposed works separately under *Duffield*, I have also stepped back to give consideration of the impact that the composite effect of the works proposed will have on this church. I have done so in part because in my judgment the extensive reordering works taken together will result in harm to the significance of the church at a level of harm greater than that which I have ascribed to the majority of the individual components assessed individually. The harm, in my view, that is likely to be caused by the works as a whole is likely to be a moderate degree of harm. I reach that conclusion based on the fact that while individual components of the work differ in their impact, as considered above, taken together the works have an additional layer of impact because they are so extensive and also because some of the appeal and significance of the interior of this church arise from its ensemble value, which will be lost by the extent of the works.

89. However the interior is plainly not the whole story of, or even the most important contributor to, the significance of this church. I am strongly persuaded by the careful consideration given to this by Mr Edgar in the Statement of Significance that it is the predominantly unchanged exterior of the church that in fact plays much the more important role in assessing its significance overall. Furthermore, there is a general acceptance that the individual components of the ensemble are not of themselves particularly noteworthy in terms of history, artistry or quality, even if some individual consultees liked elements of them. Nowhere, despite the very extensive and careful reviews that have been undertaken of this controversial scheme, has there been any suggestion that the various interior changes that have been carried out in the church from time to time have been carried out with exceptional craftsmanship, cohesion or architectural vision. Some well-reasoned views have been expressed to the effect that the ensemble effect is comparatively charmless (see for example the views of the (highly experienced) parish architect Peter Rogan). In any event, some elements of the historic interior are to remain in the church (the gallery with

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<sup>33</sup> Together with the absence of resistance to them by the consultees.

its pews, the altar, the fascia of the pulpit) and will tie together to introduce a cohesive historical note to the finished re-ordering.

90. The exercise of assessing the degree of harm places the powerful visual impact of the scale of the change and the loss of an interest by removal of the ensemble interior on one side of the scale, and the relative lack of importance and merit of the interior components, together with the replacement of what is perceived by some as charmless and dissonant on the other. This assessment leads me to the conclusion that, on a composite view of the harm caused, the harm will be, at most, a moderate degree.
91. Assessing the justification for carrying out the proposals taken as a whole, I am able to say with confidence that it is compelling in this case. The parish has submitted highly detailed and extensively evidenced material amounting to a clear picture that this particular interior does not work for this church and its community. The proposals have been in the pipeline for many years, carefully reviewed and modified on several occasions with an open mind by the Petitioners. They have developed the proposals with a consistent underlying purpose of providing flexibility of use, cohesion and modernity to enable the church to appeal to the current generation and the local community it serves.
92. The ability to do so is lacking in the existing constrained configuration and the purposes the church has aimed for in seeking to change those constraints have never deviated. The responsiveness of the Petitioners in thoroughly testing and exploring options without losing sight of their objectives indicates the importance to the parish of the matters set out in the Statement of Need which have driven the Petition. The Petitioners have, in my judgment, shown that they and the PCC have thought out in detail the purposes the plans are to fulfil and I find that those purposes amply justify the proposals: for an increase in the size of the worshipping congregation; to support a ministry delivery to an up-and-coming, forward looking local community; for greater use of the church building in comfort and with proper accessibility, none of which is achievable without, in the process, significantly harming present features. All of this has led to a future looking plan which also seeks to reference, aspects of its heritage.
93. I am satisfied that the balancing exercise required of me by *Duffield*, when conducted in relation to my assessment of these proposals taken as a whole, results in the conclusion that the proposals should be allowed. Despite the moderate level of harm and the strength of

the presumption that gives rise to, I am nevertheless satisfied that the Petitioners have made good a powerful case for the benefits that will follow from the transformation of the interior of this church into an accessible, welcoming space with the ability to use such space flexibly. These benefits strongly outweigh the negative consequences of the proposals. I am satisfied that the Parish has demonstrated that the existing arrangement of the interior requires a bold reordering in order to achieve accessibility across the broad strata of the community it serves. The means by which they have done so is already set out in detail elsewhere, but in particular:

93.1. All of the church's key activities require use of the church building because there is no church centre or other outbuilding to use. I accept that potentially large numbers of people will attend some church events and that many find the existing arrangements off-putting, uncomfortable and inhibiting to use;

93.2. I accept the Petitioners' evidence that the present rigidity means that there is no scope for using the church for different forms of worship nor for flexible music formats such as might well take place were the space more accommodating. I am satisfied that the current heavily pewed and high-backed layout of the church poses significant drawbacks to the achievement of the objectives described in the Statement of Needs;

93.3. The current position is that the church cannot readily and comfortably be used for anything other than traditional format worship with the congregation seated in rigid rows with no visibility for children and many sight-lines blocked by features such as the high backs of pews and the pulpit during important events. Church users complain because the pews are unforgiving for any length of sitting and unsuited to the modern community;

93.4. Whilst I recognise that the extensive nature of the plans does not retain the order, ensemble interest and features of the existing arrangement of interior elements, and I accept that these elements make contribution to the significance of the church, nonetheless the plans do ensure retention of some interesting aspects of the existing interior (in particular the gallery, the altar and the fascia of the pulpit<sup>34</sup>) which the Petitioners have indicated will be combined with a high quality, permanent visual

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<sup>34</sup> Unless the pulpit is taken by another church along with its fascia.

display of the present interior within the church. In my judgment, far from creating a featureless, modern vacuum within a Victorian shell, the proposals will create a vibrant and well-used living interior, whilst retaining furnishing details which reference the work of previous times which are relatable and interesting to modern churchgoers, albeit that they are not those features deriving from form and arrangement;

93.5. I also regard the lack of accessibility, flow and visibility for children and for mobility impaired visitors (for example the total lack of access to the chancel or the altar rail for wheelchair users, the inability for children to see over the top of pews, the difficulties posed to anyone infirm in accessing the pews because of the narrow spacing and the timber steps) as a further, very important, factor which requires significant change in order to address it.

94. The foregoing matters indicate to me that in assessing the proposals as a whole, the balance is tipped clearly in favour of allowing the works, despite the harm that will be done to the significance of the church by doing so. Having considered them in detail, I believe that the appropriate course in this case is to allow the proposals in full and without modification.

95. As has been noted by both Petitioners and others, the achievement of the Petitioners' objectives depends on the integrity of the proposed scheme as a whole. Indeed a less ambitious scheme might do harm of a different kind to the church – namely potentially detracting from the features which currently exist, while simultaneously failing fully to achieve the objectives of the Petitioners. For example, it is highlighted in the various responses from the Team Rector – and I agree - that if the central block of pews were to be replaced by flexible seating but the box pews retained, the visual disparity would fuel an unattractive contrast between those areas and there would not be the creation of space envisaged for community events. Furthermore the levelling of the church floor would not be achieved and the ability to heat the church uniformly would be affected. The disadvantages of discomfort and access difficulties to those box pews would remain. Similarly, if the pulpit were to be retained it would either be in its present position, with its associated dominance and blocking of sight-lines to the east end of the church and inhibiting the use of the chancel for worship and concerts, the relocation of the font and the

siting of the wheelchair ramp. Or, if moved, it would remain unused and produce an anachronistic and dissonant result.

## **Conclusion**

96. I am satisfied that this is a case where the mismatch between the existing layout and furnishings of the church and the requirements of the community it serves is extreme. If I were to leave matters as they stand, or permit only limited changes, I would be preventing the parish from developing its mission in expanding the congregation and reaching out to its local community. I respect the views of the consultees and I am grateful for the detailed, thoughtful and balanced way in which they have expressed their concerns and objections. However on the evidence before me I do not believe that a piecemeal or partial reorganisation would answer the needs the parish has identified and I accept that the problems noted by the parish in the Statement of Need and responses made in these proceedings are a real and significant impediment to the development of the church's mission in the local community. To grant permission is therefore to give the church an opportunity to move forward in an environment both well suited to the location of the church and attractive across the whole spectrum of the community.

97. Accordingly the proposals set out in the petition and accompanying plans and notes, as recommended by the DAC on 30 July 2020, shall be permitted in full, subject to conditions, most of which I have already indicated.

98. I wish to express my gratitude to the Petitioners (in particular the Team Rector), the PCC, Mr Edgar and Mr Rogan, the parish architect, and all who have guided and assisted them for their thoughtful, exhaustive responses and their notably positive approach to this process, as well as to all of the highly expert consultees who, without exception, have fairly raised difficult and important points which have influenced the proposals in a positive way.

99. In accordance with the usual practice the Petitioners will be responsible for the Court's costs. In light of the amount of work involved in this case and the time spent by the Registry in dealing with correspondence and papers, an order for additional fees in respect of that time has been requested and is, in my judgment, appropriate. The preparation and correspondence time indicated will be presented to me and I will then assess the reasonable

amount to be payable in accordance with the Ecclesiastical Judges, Legal Officers and Others (Fees) Order 2020. Once assessed, I will make an order for additional fees in respect of that work together with payment of the Court's costs.

LYNDSEY DE MESTRE QC

CHANCELLOR

27 FEBRUARY 2021

**ANNEX – detailing the balance of works considered under paragraphs 71 - 87**

**(Pews, pulpit, lectern, font and organ (and related considerations)  
considered separately)**

Existing flooring in nave and chancel and replace with new concrete suspended flooring with stone and timber flooring finish and stone steps, ramp to dais and carpeting on part of dais;

Changes and works to the nave including creating a new partitioned WCs and storage area in the north west part of the nave, with associated plumbing and drainage; installing a new servery area in the new south west part of the nave;

Forming a new vestry in the tower at first floor level; form new reredos behind altar incorporating storage; formation of an emergency refuge for wheelchair users in south east nave corner;

Installation of new glass doors in the inner tower/west porch entrance with new entrance matting system and matching of the porch floor with that of the church;

Instal new heating system including an oil fired boiler; install tanking system and new sump pump, filling in an old coal chute and installing a new boiler house entrance; install destratification fans to the nave west wall; new dado wall panelling to the walls of the nave to incorporate elements of new heating system;

Replace all electrical and lighting systems; install new audio visual and hearing aid loop systems; install new fire alarm system;

Introduce a new drainage system running through the churchyard; renew existing water supply pipe running through the churchyard;

General redecoration; introduction of 10 folding tables and a storage transporter, removable altar rails, 2 prayer desks and seats, a new lectern, a new safety rail to balcony;

Removal and disposal of vestry screen, storage area screens, inner tower doors; items from the Sanctuary/Chancel including (amongst other listed items) altar rails, credence table and choir stalls; various items from the vestry including safe, cupboard and tables; various items from the nave including blue upholstered chairs, piano and screen; old pew parts from the balcony.