

**Neutral Citation Number: [2022] ECC Nor 1**

**IN THE CONSISTORY COURT**

**DIOCESE OF NORWICH**

**In the matter of Thursford, St Andrew**

**2021-063370**

**-and-**

**In the matter of a petition from Lance Sharpus-Jones, Churchwarden, Christopher Rheinberg, Treasurer of the Parochial Church Council and the Rev'd James Muggleton**

**-and-**

**In the matter of Installing a “Community Stained-Glass Window” and Removing 25 Pews**

**Judgment of the Chancellor**

**May 11, 2022**

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**JUDGMENT**

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1. The Petitioners seek to remove 25 pews to provide the space and flexibility needed to equip the church for community events. They seek further to create a new stained-glass window in the Chad chapel, re-glazing with stained-glass and repairing the Chad chapel East window with the aim of reflecting Thursford as it is today and enhancing the chapel as a pleasant meeting place. The estimated cost is £26,482.00 which the Petitioners will pay for by using the Parochial Church Council's (“PCC”) funds in the

sum of £4463.00, gifts and legacies of £16,000.00 leaving them with £6019.00 to raise.

2. The Petitioners have submitted a Statement of Significance. The church is a Grade II\* listed building with origins in the thirteenth century. It has a number of mediaeval features, including the fourteenth century West tower with decorated tracery in the belfry openings. It was extensively restored and extended in the mid-Victorian era. In 2013, significant repairs were undertaken to make the church watertight and new electrics, lighting and heating were installed. In 2020, a new kitchenette and WC were installed with the aim of allowing the church to serve the village as a community hub.
3. The most significant feature of the church is its stained-glass. The East Window above the altar (1873-7) was designed by the Rev'd Arthur Moore and was described by Pevsner as "one of the most beautiful of its time in England, or indeed, Europe, as good as the early Morris glass." The Chancel windows, designed by H.E. Wooldridge, are described as being "high quality". The Elizabeth I window is set in in the South aisle window opposite the church entrance depicts the Royal Arms of the Queen, having been recently moved from the vestry (now a new lavatory).
4. There are other very significant items from the period of the Victorian restoration which are described in the Statement. The moveable pews are said to be of plain Victorian style and some have worm and are in poor condition. The better pews have an estimated sale value of around £40-£50 each. They are thought to be quite saleable.
5. The Thursford PCC has for the last twelve years been attempting to link the church to the community as the only feasible model for survival in its view. Greater space is said to be needed to take forward that vision.
6. The Petitioners recognise that the Nave and Aisles (North and South) will be affected by removal of the pews and argues that the re-glazing and repair of what is described as the "unsightly" East chapel Window. It is the only window in the church that does not have stained-glass.
7. The assessment of impact, which is really supposed to be a neutral statement, addresses only the positive features saying that effectively there will be no negative impact at all. I prefer to see a more balanced assessment.
8. The Statement of Needs first describes Thursford as being a small parish of around one hundred households and sets out how the church is, or could be, the focal point of community activity, as the village has no other community buildings.

9. It is argued that the pews take up the majority of the floor area and were placed there at a time when attendance at church services was far larger than it is today and that an ample number will be left. It will open up the rear of the Nave and in the side aisles for setting out tables and creating space for gatherings.
10. It is said that both of the proposals are needed for the future of the church. In other words, that without the ability for the church to be at the centre of village life as well as being its place of worship there is a problem with its future.
11. I shall consider now observations have been made about these proposals. Broadly speaking, there are two issues: one, is the proposed window suitable for a church that has, as one of its most significant features of importance which I shall call issue “A” and two, the issue of whilst the removal of pews may be necessary, does it have to be as many as twenty-five? I shall call this issue B.
12. Historic England (HE) was consulted and responded on December, 21, 2021. B – HE did not oppose the removal of the pews which it described as “plain and unexceptional” examples from a late Victorian re-ordering. It enters one caveat in that, since the pews mark a significant moment in the church’s history, it is said to be appropriate that some are retained in blocks of seating in the Nave and South aisle. A – HE says that the proposed stained-glass window would replace modern plain glass of no historic interest in the eastern window of the South aisle (St Chad’s chapel). It comments on the features that reflects traditions in stained-glass work. HE deferred to the DAC on specific design details including religious meaning.
13. The Ancient Monuments Society (“AMS”) mentions the critical consensus that the ‘Moore’ East Window is one of the greatest Victorian windows ever produced and gives very helpful detail as to why this is. AMS says that it is of astonishing quality for its location in a “small Norfolk church”.
14. AMS makes the following observations: the dilemma is that of two stained-glass windows with completely divergent inspirations and aesthetic aims appearing in the same building.
15. AMS then makes the following points in mitigation of the conflict the dilemma may cause.
  - a. There is virtually no point in the church where the two East Windows, the Moore and the Community windows will be seen in juxtaposition.
  - b. The use of margin lights on one window echoes that on the other.

- c. The contribution of the local donors who have each pledged £2000 for the ‘Community Window’.
  - d. That the Community Window has not set out to be a sophisticated work of art and that any refinement in the process should bear that in mind.
  - e. Thursford could be the place to see the two different forms of this art in a classical and contemporary form.
  - f. The existing East Window in the Chad chapel has no redeeming features and needs replacement.
  - g. There was also a request for more information of a technical nature.
16. The Church Buildings Council (CBC) had a detailed correspondence with the Diocesan Advisory Committee (DAC). The CBC was initially content to leave the consideration of issue B to the DAC but expressed substantial reservations about issue A. There were continuing reservations about the detail given and said that, despite the provision of additional information by the Parochial Church Council (PCC) the document appears small in degree to the ambition and scope of the proposal. The CBC acknowledged that the PCC had clearly thought hard about the design and its theme in consultation with the DAC but thought details could still be expanded as to methodology, for instance as to how the artist would work collaboratively with the community. Although the CBC wished and wishes these points to be taken into consideration, it did not want to delay the application unnecessarily and said it was content to leave the matter to the DAC.
17. The Victorian Society (VS) congratulated the parish for its “wonderful work” that it had done in restoring “this fine church” and emphasised that its critique of the proposals was not to frustrate but to assist. On issue A, it had concerns about the quality of the proposed Community Window and the experience of the lead designer (‘lead’ as in the chemical element not as in principal designer)) and, in particular, as to the way the lead coming appeared to cut across the margin lights, thus, it was said, undermining the design of the window as well as the framing and also the defining function of the margin lights themselves. In respect of issue B, it wished (as did I) to confirm whether it was 15 or 25 pews that the Petitioners wished to remove. The VS proposed a compromise solution in respect of the pews – retention of the nave pews and frontals alongside the clearance of both aisles. Further detail of the need was requested along with details of replacement chairs.
18. The DAC (who were content to recommend the petition) replied to the VS that:

- a. The design is actually by a highly trained and experienced artist. The contractor is a very experienced and able artist and the DAC decided that it would trust her proposal. Samples of the coloured glass can be requested, but it might be useful to visit the artist's website (a link for which was supplied). The DAC explained that Rose and Keiran make up the team 'Driftwood Glass Studio'. Studying at The University of Sunderland and based at the National Glass Centre, they left in 2013 graduating with BA (Hons) in Glass and Ceramics. Soon after graduating they set up their business Driftwood Glass Studio. In 2018 Rose won the Award for Excellence from the Worshipful Company of Glaziers and Painters of Glass. She had the honour of working in established Stained-Glass Studios in the UK and Europe throughout 2018 and 2019.
- b. The DAC said that amendments were negotiated with the parish before consultation: this is evident in the online file documentation. The DAC had also requested further information on a number of issues and this was supplied in the additional information document that explains many of the issues raised by various consultees and the DAC.

19. The VS in its final response concluded that:

- a. It did not wish to become a party to proceedings but wished to maintain its concerns to both aspects of the proposed works and asked the Court to take the detailed comments into account in deciding the outcome of the case.
- b. It wished to reiterate its opposition to the proposed removal of historic bench seating, as it is currently proposed, saying that the reasons for the *specific* extent of pew removal proposed were not clear, and that therefore the justification for that aspect of the scheme had not been made out. It commented that the Statement of Needs referred to current and future uses, but that details of these were not included. The VS was concerned at what it described as the meaningless extent of bench seating that would remain in the nave and aisle, and the effect of this on the character and appearance of the interior and points out it had suggested potential alternatives as far as it was able to on the basis of what it said was the limited information supplied. It stated its regret that the parish had not seen fit to engage with its suggestions and concerns.

- c. The VS said that it was not good enough to justify changes on the basis of a principle alone. Applications needed to be supported by specific justification, which, in this case (in respect of the pew removal), the VS concluded was unfortunately lacking.
20. The Rev'd Dr Jeremy Haselock (JH) was formerly a member of the DAC and the glass adviser, but later moved to a purely advisory role. In an email of November 21, 2021 he explains that he now has no right to object to the DAC recommending a faculty. He says this because on August 31, 2021 he was then on the DAC as the relevant adviser and had not felt able to support the proposal. His reasons were as follows:
- a. The proposed design for the new window in the eastern triplet of the Chad chapel fell very far below the high standard set by the Victorian windows and, as a response to the exciting invitation to add a 21st-century window to the church he found it deeply disappointing.
  - b. He would expect the rich colours of the existing glass and the very strong lines - both painted and leaded - to inspire the designer even when working in a more contemporary idiom. He suggests the chosen colour range is insipid, lacking in strength and both the lead lines and the painting is weak. The painted detail is far too small and not related in any way to the structural lead work. He fears the written texts will be illegible- especially those in the topmost panels.
  - c. He feels the design of the whole is very poor with the leaded circles fighting against the rectangular scenic panels. He is not even sure if the leading will be strong enough. If the window is to be protected by exterior grilles the design will be much obscured when viewed from within.
  - d. Finally, he says that the iconography (subject matter) is far from clear. Christian imagery is minimal - there is only the Cross at the top which, surrounded by plain glass, will be hardly visible. There is no heraldic reference to the Scott-Chadd family whose pew/mausoleum this chapel is.
21. Having given an opportunity for representations, I decided I should determine this petition on the papers having considered and applied the Faculty Jurisdiction Rules 2015 (as amended) Rule 14.1. I gave the Petitioners an opportunity to make any final representations or submissions they wished to make, if any. The Petitioners responded in writing.

- a. The Petitioners say that in 2010, St Andrew's Church was in a perilous state. The roof over the North Aisle was allowing significant ingress of water, wiring throughout the building was condemned as unsafe and as such disconnected, and there was no provision for heating the building. Attendance at church services had diminished to a small handful and outside Sunday services the building was largely unused.
- b. They go on to say that a newly populated PCC decided to turn the fortunes of the building around. The result was a pledge to engage the community to restore St Andrew's to a well-preserved state, to install new lighting and heating and initiate an annual maintenance plan to help secure the building for both Christian worship and for wider community use for the future. It was a pledge that was particularly important, in their submission, since the village has no public hall, pub, shop or other community space.
- c. They point out that by 2015, with considerable help from the Thursford community working under the banner of The Friends of St Andrew's and financial contributions from the Parish Council, that pledge had been met. From the perspective of worship, there was a small increase in attendance at regular church services, and a significant increase at celebratory services including Christmas, Easter and Harvest Festival. The impact of wider community involvement was much greater, with attendances of up to seventy people at regularly held concerts and other events, bringing in around £4,500 per year towards the fabric of the building. The Petitioners say that this was a real achievement for a community of around one hundred households.
- d. The Petitioners point out that the Chad family, in the Victorian era, very successfully merged elements of the medieval building with their own taste for gothic architecture.
- e. They further say that the church should be regarded not as set in aspic but as a living building, adapting to the changing needs of the Thursford community: preserving the best from the past but introducing what is needed for the present. They say that it was in this spirit that, in 2020, a kitchenette was built into the North Aisle and the vestry was converted into a disabled friendly lavatory. Both additions were in part funded *by* the community and were *for* the community, responding to the fact that St Andrew's has become very much the centre of community life as well as Christian worship. They say that

- a 'post Covid' plan for community events is currently being finalised, including a series of community lunches, concerts, talks, meetings and major events surrounding the Queen's Jubilee and the summer holiday season.
- f. They submit that this will open up space at the rear of the church and in the North aisle, so allowing for the easier setting up of tables and seating for events.
  - g. The removal of twenty-five pews was requested in order to achieve the attached plan, adapting to the current and future use of the church building. It is said that this will also solve the congestion of pews, placed too close together for use in the South Aisle, necessitated when pews had to be moved to make space for the new kitchenette and serving area.
  - h. Eighteen pews, all in the best condition, are being retained, helping to maintain the atmosphere created at the time of the Victorian restoration within the church and denoting the church ready for worship. The remaining pews will seat seventy-two people. Supplemented by the stock of chairs the Petitioners will be able to seat one hundred and eighteen people when needed.
  - i. The Petitioners then responded to observations I had made at Directions.
  - j. The generally secular nature of the images of the new window is said to be designed to celebrate the contribution of the Thursford community in restoring St Andrew's to its current good state of repair and its current and future use as a community, as well as a religious space. The images of each panel represent aspects of Thursford that are close to the hearts of people who live in the village. The wide-open countryside, the importance of agriculture, magnificent oak trees, the owls that glide over the fields, the annual migration of geese, music performed in the church and the annual Thursford Show for which the village is famous, are all featured. They represent the glory of living in Thursford and the generosity and glory of God.
  - k. They say that the new window replaces the one area of the church where the glass is in a particularly poor state of repair and has never been decorated. There can be little doubt that the current mix of Victorian and more recent, obscured glass will benefit the whole church by being replaced.
  - l. The design of the new window complements the colours used in the Nave windows but it is not designed to compete with them. It is said to be a window designed for its time. The Petitioners submit that set apart from the Nave



windows, and not within the same visual sight lines, it will set a warm atmosphere for the raised chapel, used as a separate meeting area for the community and representing that community.

- m. The Petitioners indicated they are happy to remove the names under each image, which was a matter I had drawn to their attention. The Petitioners say that a plaque below the window will explain how each pane represents life in today's Thursford.
22. There are two separate features to the application. The first is issue A (the Community Window) and the second is issue B (the removal of the pews). There are considerable reservations about the Community Window (as set out in JH's objections) and concerns about the removal of twenty-five pews (as argued by the VS). JH was content to leave the issue of removing the pews to the DAC and although the VS had reservations about the Community Window, its perhaps more pressing concern was the removal of so many pews. The submissions in opposition to the Community Window reflect a view that its quality is not compatible with the church, in particular given the church's magnificent stained-glass windows. Those in opposition to the pew removal do not seek to argue that no pews should be removed but that there is insufficient specific justification for twenty-five removals.
23. This a Grade II\* listed church and its most striking internal features are the stained-glass windows. The opinion of the DAC was that the work or part of the work proposed was likely to affect the character of the building as a building of special architectural or historic interest. The particular considerations of *In Re St Alkmund, Duffield* [2013] Fam 158 apply in performing the necessary balancing exercise when determining petitions affecting listed buildings attracting the ecclesiastical exemption in this situation. The questions I have to ask and answer are:
- a. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historical interest?
  - b. If the answer to the first question is in the affirmative, it is then necessary to ask is how serious the harm would be.
  - c. The next question is how clear and convincing the justification for the proposals is.
  - d. Generally, the greater the harm, the greater the demonstrable benefit will need to be to justify the proposals and, importantly, in the case of a building that is

listed grade 1 or II\*, if *serious* harm would result then the justification would need to be *exceptional*.

24. In the case of Issue A, the proposed Community Window replaces a plain glass window which is in a poor state of repair. I had some reservations about the designs on the individual frames which are essentially secular. The Petitioners point out that they do not have the resources to compete with the stained-glass masterpiece and that this window is in the Chad chapel and is not in the line of sight of the other windows in question. It is not replacing a better window and, additionally, it is reversible. If a future generation did not care for it or funds existed to match, in a twenty-first century manner, the existing stained-glass then that is not impossible to achieve. Most importantly, the window is something that has come from the support and renewed enthusiasm for placing the church at the centre of this parish – playing a role it has not played for some time but will have done in its past. This has been due to the very considerable work put in over the last few years. It is not a window to everybody's taste, but I consider any harm created in the Duffield Test is in fact at the lower end of the scale and the justification amply made out in the context of what both is being achieved and what could be achieved. I found all the contributions extremely helpful and that of AMS particularly so in its balanced approach. The Petitioners have agreed to remove the names underneath each panel, which I had concerns about as being likely to distract from the window as a whole and to be potentially confusing. In view of its particular relevance to the local community, I did not find the lack of specific theological reference to be as important as I might otherwise have done.
25. Issue B, the twenty-five pews, comes down in the end to a question of numbers. No-one, including the VS, has suggested there is no need for any removal. The VS's concern relates to the lack of specific justification for the number that the Petitioners wish to remove. The Petitioners argue that the space is needed for a series of projects and potential that they have but perhaps more widely for the hub as a whole and point to the fact that the works undertaken in respect of the kitchenette have also caused an unattractive bunching of existing pews. Original congregations in this church had fallen almost to single figures. Now they have risen on important occasions to nearer 70 and on others to a better figure. The pews retained will be enough for services and the plan is to introduce additional seating from the church's existing stock of chairs as and when needed. I have judged proposals for community hubs in churches before and I accept that there has to be something of a 'leap of faith' for them to succeed.

The alternative, however, is an empty church (however lovely its interior) which sooner or later will fail.

26. In balancing the competing features in the church as a whole, I have examined carefully the significance of the existing pews. They look in photographs perfectly pleasant benches of their kind and period but nobody is arguing that they have any particular significance over and above that. They are the existing pews and I am very alert to petitions seeking to remove pews for little reason except perhaps fashion and where the proposed schemes are hardly more than imaginative constructs to justify the removal of the pews. I am satisfied that this is not the case here and that the Petitioners genuinely want to retain sufficient pews for normal use during services. I am satisfied that the need is proportionate to the degree of harm that would be caused, which I consider is low to low-moderate.
27. I also bear in mind that the Petitioners are seeking to retain the best of the pews, as some are in a poor state and have worm.
28. I note that the Petitioners intend to use chairs when there is a need for some additional seating. I do not know whether these chairs have been approved by faculty. Of course, there is a difference between finding some 'spare' chairs to accommodate a particular event and seating that is placed in the church as regular seating. The latter must be of an appropriate quality and design (relative to the church in which it is being placed). The Church Buildings Council gives valuable advice on this topic. I shall, therefore, include a condition that the Petitioners seek the opinion of the DAC as to whether a further faculty is required in respect of the chairs and their proposed usage.
29. Accordingly, I grant the faculty as prayed (and with the names removed from underneath the individual panels on the Community Window and placed on a plaque instead) in respect of the Community Window and the removal of twenty-five pews. I have taken into account the views of those who responded and am grateful to all of them for their assistance.
30. There is no order for costs in respect of this judgment.

**David Etherington, Q.C.**  
**Chancellor**