Neutral Citation Number: 2026 ECC Yor 2

IN THE CONSISTORY COURT OF THE DIOCESE OF YORK

IN THE MATTER OF: ST HELEN'S, THORGANBY

JUDGMENT

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1. I have before me a petition dated 5 March 2026 (the "Petition"), brought by the Rector, the Reverend Jackie Doyle Brett, and churchwarden Mrs Jill Patrick (the "Petitioners") of the grade I listed St Helen's church, Thorganby, seeking to make permanent the removal of five pews (the "Pews") from the rear left of the church in order to create a hospitality, informal worship and bible study area.

2. The Pews have already been removed and are currently in local safe storage because in 2024 the Archdeacon of York authorised (by means of a Temporary Minor Reordering Licence (the "TMRO")) their temporary removal. This was done, following helpful advice from the Diocesan Buildings Advisor, in order to allow the Petitioners and church community to experience the impact of the change of space upon the interior of the church and to test the success or otherwise of the proposed removal against the church's needs.

3. The Petitioners have provided evidence that the removal of the Pews and creation of a hospitality space has proven successful, and indeed the TMRO usefully provided them with an opportunity to refine their initial thinking about what was needed for the church (more detail on this follows below) in an evidence-based way. Accordingly, the Petitioners now seek to make the removal of the Pews permanent.

4. However, the Petition, of which Public Notice was given in accordance with the Faculty Jurisdiction Rules 2015 (as amended) (the "FJR") in the period 24/06/26 to 24/07/26, has been the subject of opposition from eight objectors, who wrote to the Registry in appropriate time with letters of objection setting out their unhappiness with the proposal to make the removal of the five Pews permanent.

5. I will say more about the detail of the objections below, but for now I note for the sake of completeness that none of the objectors has elected to become a party opponent in this matter. Furthermore, that one of the objectors did not qualify as an "interested person" within the definition provided by rule 10.1(1) FJR (living in London, having not lived in the parish for many years, and lacking any sufficient qualifying interest in the subject matter of the petition.) And finally, with a couple of notable exceptions, the majority of the letters appear to follow a loose template in their content and mode of expression. Although not ideal, this does not disqualify or indeed necessarily weaken

the strength of the objection expressed. However, in this case, somewhat concerningly, that template appears to have been founded upon either a failure to properly read the scope of work proposed by the Petition or otherwise a serious misunderstanding of it. Many of the objections relate to the undesirability of and lack of need for the "*installation of kitchen facilities*" in the area created by the removal of the Pews, and/or to a strong dislike of the temporary tables and chairs currently used in that area, with vociferous objections being directed at the "*permanent installation of plastic tables and chairs*". These are not matters which are being petitioned for[1].

6. That non-qualifying objection and the issues regarding the misreading of the Petition evidenced in many of the other letters aside, I have, nonetheless, taken into very careful consideration those relevant matters which have been thoughtfully and robustly expressed in the qualifying letters of objection and I am grateful to those who took the time to express their views on this Petition.

7. For completeness I will also add here that I have read in detail all of the materials filed in respect of this matter. I gave directions, in late September 2026, for the provision of further information, including further details of the significance of the church and Pews and further information about alternatives to the proposals and other related matters, which were duly complied with.

8. The DAC considered the petition and recommended it to me in their Notification of Advice (the "NoA"), dated 9 June 2026, without any comment or proviso.

Significance of the church and the Pews

9. The church comprises a 15th century tower and a nave and chancel (with notable chancel arch) dating from 1690, with later alterations and additions over time, including a 19th century vestry. In 1948, owing to deterioration of the building, particularly the ceiling, the church was substantially redecorated and restored.

10. The listing entry picks out several features as contributing to the grade I significance of the building. In particular, the tower, nave and chancel owing to their age and construction, with specific features such as the coigns, windows, battlements, chamfered window openings, coping, moulded cornices, tracery and frieze identified for special mention. As to the interior in particular, it is notable the plainness of the church is singled out for comment ("*Interior: double chamfered, round chancel arch on chamfered piers. Otherwise plain…*") along with the late 17th century font with lead lining, a wooden benefactors plaque and a Victorian coat of arms plaque.

[1] It is expressly stated in the evidence before me that the tables used for hospitality at the moment are borrowed from a neighbouring church, which is looking for their return, and that whilst the chairs belong to St Helen's, if a faculty is granted in this case, any permanent furniture for the hospitality space will be the subject of discussion with and advice from the DAC as well as careful research with parishioners, and will be the subject of a future petition for faculty.

11. The pews (i.e. the whole collection of eighteen pews which fill the nave and to the west of the entrance door (the "Nave Pews), which includes the five Pews which are the subject of this Petition, plus the two choir pews (the "Choir Pews") in the chancel) are not identified in the listing entry as being of particular significance. This is perhaps unsurprising when further consideration is given to their age, provenance and appearance.

12. When stepping back to consider the totality of the pewed interior of St Helen's, the two Choir Pews in the chancel are deserving of separate consideration as they are the best of the benches in the building. They should, in my view, be evaluated in common with the prie-dieu, altar rails and nave lectern, with which the Choir Pew frontals match and these are all well-made Victorian pieces with a distinct appearance and style.

13. The Nave Pews (including the five removed Pews) which are the focus of attention in this judgment, are different in character and quality. Having reviewed the evidence before me I conclude that the Nave Pews were likely to have been introduced during the late 19th century. Whilst, on the north side, the Nave Pews form a continuous run from west to east, on the south side they are broken by the south entrance and therefore do not form a cohesive scheme on both sides of the church. They are manufactured from pine and are in relatively good condition. They have been painted (seemingly relatively recently, although at an unknown date - and not pursuant to any formal permission that it has been possible to discover) a conspicuous shade of brown – not, seemingly, by reference to any other aspects of the church interior decor. They appear to have originated from one of the numerous Victorian pew catalogues which proliferated at the time and are very basic in their design. They have been dowelled into the floor to make them robust (when the five Pews were removed following the TMRO it was discovered that they were not free-standing, but rather were unstable and would fall backwards without the dowels, therefore they cannot be re-used unless re-dowelled) - and they sit upon herringbone time block flush pew platforms which are well maintained, polished and kept clean.

14. It is important to recognise the contribution the Pews as a whole make to the "plain" impression of the interior, in spite of the fact that they are not picked out as being particularly noteworthy in and of themselves, nor is their collective contribution deemed sufficiently important to warrant mention in the listing entry. The pewed nave contributes a particular simple and ordered feel and appearance at St Helen's which is – in my view rightly - picked out by some of the objectors as something that they (and no doubt others) feel contributes to the unique qualities of the church upon entering it.

15. That does not, however, mean that the pewed interior must remain preserved as it is and unchanged forever. It does mean that it is important to evaluate its contribution to the overall significance of the church and to take proper consideration of it in proposals for relevant changes.

Determination

16. In dealing with the question of whether or not to permit the removal of the five Pews to be made permanent, I apply the framework set out by the Court of Arches in *Re St Alkmund, Duffield*[2] and *Re St John the Baptist, Penshurst*[3]. The framework is: (1) would the proposals, if implemented result in harm to the significance of the church as a building of special architectural or historic interest? (2) If the answer is 'no', the ordinary presumption 'in favour of things as they stand' is applicable and can be rebutted more or less readily, depending on the particular nature of the proposals. (3) If the answer to (1) is 'yes', how serious would the harm be? (4) How clear and convincing is the justification for carrying out the proposals? (5) Bearing in mind the very strong presumption against proposals which will adversely affect the special character of the listed building, will any resulting public benefit (including liturgical freedom/ pastoral well-being/ mission opportunities/putting the church to viable use consistent with its primary role as a place of mission and worship) outweigh the harm? The more serious the harm the greater will be the level of the benefit needed before an application can succeed. In a Grade 1 or 2* building, serious harm should only exceptionally be allowed.

Duffield question 1: would the proposals, if implemented result in harm to the significance of the church as a building of special architectural or historic interest?

17. In addressing this question I have paid attention to the fact that the grading of this listed church is I, reflecting the importance and uniqueness of its architectural features.

18. Drawing from the listing entry, the Statement of Significance and the wider evidence before me, it is apparent that the particular architectural interest of the interior of church is principally due to the striking chancel arch, along with the seventeenth century font and plaques.

19. Although not identified in the listing entry, I consider that there is also a contribution made by both the chancel furniture to the chancel area of the interior and (relevantly for this Petition) by the plain, ordered appearance of the nave, which the Nave Pews play a part in.

20. The risk of a change to the pewed interior arrangement is expressed as a concern across several of the letters of objection before me, namely that the permanent removal of the Pews would "*fundamentally change the experience and dynamic of the nave*" and the view expressed by one of the objectors that the Pews are an "*integral part of and contribute to the character, spatial arrangement and significance of the church*".

[2] (2013) Fam 158

[3] [2015] WLR (D) 115

21. Whilst I thank the objectors who raised these points for identifying an important consideration and for expressing their views on the matter so cogently, I do not agree that the particular concerns that have been raised have substance in this case, or are proportionate, when the real impact of the permanent removal of five Pews is evaluated in the context of the interior and the building as a whole.

22. None of the salient interior features contributing to significance which I have mentioned (including, in my judgment, the contribution of the plain and ordered pewed interior appearance) will be adversely affected by the permanent removal of the five Pews. The appearance of the Nave Pews filling the majority of the space will continue, given that thirteen of them remain in situ and the location of the five removed Pews is the left rear of the church, a carefully chosen spot which minimises the impact on the way into the church and the way in which the interior is read. Therefore, such parts of the legibility and distinct character of the interior space which relate to the Nave Pews remain substantially intact and the overall impression of plainness and order is unaffected. Furthermore, it is important to recognise that the Nave Pews are themselves standardised later importations into this church. There is no contiguity of design, interrelationship with other features or element of the interior atmosphere which is especially dependent on retention of these five Pews (this may be contrasted with the two Choir Pews in their chancel setting, which have an historic and aesthetic interrelationship with other chancel furniture).

23. Taking all of these factors in the round, I therefore assess the proposal to make permanent the removal of the Pews as having no impact on the architectural or historical interest of the building.

Duffield point 2: If the answer is 'no', the ordinary presumption 'in favour of things as they stand' is applicable and can be rebutted more or less readily, depending on the particular nature of the proposals

24. Given my assessment of the first of the *Duffield* framework points, it is now necessary to consider the second.

25. A number of important matters are raised in the Statement of Need and wider evidence submitted in support of this Petition. By way of summary, I will headline what follows by saying that I am satisfied on the evidence before me that the removal of the Pews and the creation of what I shall refer to as the "hospitality space" is making a notable contribution to, and has the potential to make a further and greater contribution to, the life of this church at an important growth and revival point in its history. I am, therefore, satisfied that any presumption in favour of retaining the status quo[4] is amply rebutted on the evidence before me.

26. Turning to the particular issues I have considered in this regard, it has been clearly articulated in the written materials that the original thought process underlying the

[4] If the status quo is treated as the reinstatement of the five Pews in this case, rather than the position post-TMRO.

removal of the Pews began in 2021 and ran, through prayer and thinking in the Benefice of which the church is a part, through to 2023. There is also clear evidence – and indeed no real dispute between the Petitioners and the objectors on this point – that whilst the congregation has historically always been relatively small, it declined further over the years prior to the appointment of the present Rector and COVID then worsened this even further, such that there is now only a very small congregation of regular attendees of ordinary services, and that the number of regular services has also been reduced (this is partly also due to staffing, which the Petitioners have said is in the process of being looked at separately and it is hoped that this will shortly result in the ability to offer more services than at present). The Rector has important, dynamic and well thought-through plans to try to revive attendance at the church, to place it at the heart of the local community and to increase the number of regular worshippers. The removal of the Pews forms an important platform for those plans by providing flexibility of space in the heart of the church interior.

27. Pausing here to address another of the common themes expressed in the letters of objection before me, I find that – on the question of the level of available seating - the Rector's aim to increase attendance is not incompatible with the removal of Pews. First, whilst it is to be strongly hoped and indeed, on the evidence, expected that the numbers of regular worshippers will increase appreciably, this is unlikely to happen dramatically overnight, nor to happen to the extent that the remaining number of Nave Pews will not accommodate even a significant increase in attendees over time. Secondly, the clear evidence before me explains how the church has approached recent occasions when the whole nave has been full (as at a recent large funeral held on 8 October this year, for example). The Petitioners explain that if the Petition is granted then they would plan to raise money for appropriate additional seating (to be stored in the vestry or outside storage). In the meantime they have been able to borrow some chairs when needed to fill the space and, at the 8 October 2026 funeral "…*were able to use the space to create more seating than if the Pews had been in situ as we were able to create narrower rows*". Taking these points into consideration, I am satisfied that there is nothing before me to suggest that the impact of the permanent removal of the Pews upon seating capacity, whether for ordinary worship or special offices, mandates in favour of retaining the status quo.

28. Turning back to the development of the proposal now embodied in the Petition, it seems that the original plan to revive the church by becoming more accessible and welcoming was initially (in or around 2022/2023) to create a "kitchen in a cupboard" to allow for more community events.

29. I should add here that I have noted a commendably organised approach to research and thinking by the Petitioners at all stages of the life of this Petition, and it seems that this early stage was no exception, with notable research being carried out into this idea of creating a small kitchen in the area to be created by the removal of the Pews. (I note also that the Petitioners have researched and considered the possibility of retaining the Pews in the church, locating them elsewhere or possibly introducing castors to allow for flexible movement. However, the lack of stability of the Pews, referred to above, gives rise to insurmountable health and safety concerns in this regard, and a lack of available wall space (or other suitable on-site storage space) to relocate the Pews to in

order to achieve the hospitality space needed, whilst retaining the Pews in the church, means that these are not viable solutions. Nor, in my judgment, would these steps be proportionate to the relative importance of these particular Pews in this case.)

30. The "kitchen in a cupboard" idea proved difficult because there is no running water supply to the church. The introduction of a kitchen would therefore have been a much more ambitious plan than the one for which approval is now sought. Happily, through the helpful intervention of advice from the Diocesan Buildings Advisor to seek a TMRO and experience the space in action, the PCC found that, in practice, the newly freed-up hospitality space was well used across a range of different situations – not only hospitality after services and occasional offices, but also for a series of study sessions that were trialled, for flexible small group worship and for wider community engagement – and that the church's actual needs were met, in these circumstances, simply by having the flexible space, without any requirement for a kitchen. This evidenced-based approach has been the sensible foundation for the limited scope of works requested in the Petition before me (i.e. simply to make permanent the removal of the Pews) (and, as mentioned above, appears to have been the foundation for some serious misunderstanding of the proposal by several of those who have objected in this case).

31. Objection to the Petition has also been mounted on the basis of an argument that there is no need for any hospitality space in this church because there is a church hall nearby, with kitchen and toilet facilities. Also, that there seems – at least to the perception or recollection of those objectors who have attended the church for worship from time to time – to always have been a practice of standing up and chatting between the pews after services in St Helen's which has always been good enough as it is, without the need to remove any pews and clear any further space to allow for on-site hospitality or freedom of movement and mingling.

32. To these arguments, the point is powerfully made in answer that whilst it is accepted that some people have always met and mingled after services even before the temporary creation of the hospitality area, the restrictions of the pews inhibited some and prohibited others from joining in (those with mobility issues for whom standing for extended periods, or twisting to talk to those behind them in the pews, is difficult, for example), and that the church is attempting to reverse a decline in attendance by improving what exists in these important social aspects - and in the range of activities it is able to offer in the spiritual and sacred setting of the church itself, rather than the village hall. I also note here the practical point that the village hall is situated approximately half a kilometre away from the church on the opposite side of a fairly busy main road through the village. For those with small children or mobility issues, that location presents significant impediments if post-service hospitality, for example, were to be undertaken "offsite" in that way.

33. I have given serious consideration to all of these elements in weighing up whether there is sufficiently cogent evidence before me to rebut the presumption in favour of retaining the status quo in this case. I am satisfied that the success of the use of the hospitality space is clearly and cogently evidenced and I am persuaded, on the balance of probabilities, that both the need to improve the welcome and increase the range of

activities and flexibility of their execution which the Petitioners have articulated, together with the potential for further use of the space in the future to increase community interaction and grow the number of worshippers at this church, are all points that are well made out. I am, accordingly, persuaded that any presumption in favour of retaining the status quo is amply rebutted in this case.

Conclusion

34. I have concluded that there is no harm to significance by the proposal before me and that the evidence in support of the Petition, even taking into consideration the matters raised in the qualifying letters of objection, is convincing and provides sound reasons for making permanent the removal of the Pews sufficient to rebut any presumption in favour of retaining the status quo. I am supported in reaching those conclusions by the evidence before me and by the success of the temporary reordering under the TMRO which has allowed many of the ideas regarding flexibility, space and accessibility to be experimented with. The outcomes have confirmed that the space is put to a much greater variety of uses without the Pews than when they were present and that the ability of the church to seat large congregations, even when filled at well-attended special services, has not been compromised.

35. Accordingly, on the above assessment I am satisfied that the proposed works to make permanent the removal of the Pews should be permitted. A faculty shall issue.

36. I do not consider that there is any need for me to make this faculty conditional. It has already been recognised by the Petitioners that they may be able to raise funds by selling the Pews if a suitable buyer can be found, and acknowledged by them that any permanent furniture for this hospitality space should be the subject of discussion with, and advice from, the DAC, as well as careful research with parishioners (a plan for which has already been outlined to me) before being made the subject of a future petition for faculty.

37. In these circumstances it simply remains for me to thank again all those who have contributed to the thinking about this Petition. I wish the parish well in their development of their plans to increase worshipping attendance and community interaction at St Helen's and hope that they continue to enjoy and benefit from all of the spaces now available for use in the interior of this church.

Lyndsey de Mestre KC

Chancellor of the Diocese of York

19 October 2026