

Re: St. Andrew's Church, Compton Dundon (Number 2)

Judgment

Introduction

1. This judgment is to be read in conjunction with the previous judgment relating to the same church and handed down on September 25th, 2025. Both judgments arise from a single petition for extensive internal re-ordering dated June 10th, 2025.
2. After delivery of the first judgment, which had taken account of the letters from Historic England advising upon the proposals (see paragraphs 9 and 10), Rhiannon Rhys, their Inspector of Historic Buildings and Areas, communicated with the Registry expressing her concern that another letter, dated September 23rd, 2024, had not been considered or acted upon. That letter was of importance because it ought to have alerted the Court to the desire of Historic England to have become objectors in the faculty proceedings. Regrettably, however, in unexplained circumstances the letter failed to reach the Court file. Had it been seen, special notice would have been given to Historic England under Rule 9.3 of the Faculty Jurisdiction Rules whereby they would have become able to participate in the proceedings as parties opponent.
3. Although in the first judgment the letters of advice from Historic England were taken into account and formed the basis of the discussion in paragraphs 12 to 20, some prejudice will have been suffered by the deficit in procedure. First, greater weight is generally to be given to a case advanced by a party to proceedings than to a letter of objections from a non-party. Secondly, the party has greater opportunity to deploy evidence, either by way of witness statements or expert reports. Finally, only a party has a right of appeal (subject to intervention in an appeal being allowed under Rule 27.7).

Procedure

4. Fortunately the Court has power under Rule 20.3 on the grounds of justice or expediency to set aside (wholly or in part) or to amend a faculty. Although this power may be exercised in a variety of circumstances, given the broad terms in which the Rule is expressed, its use is

particularly appropriate when, through some mishap, the Court has been denied the opportunity to consider matters relevant to its decision which, if articulated, may have made a material difference to the outcome.

5. The contentious issue to which the objection of Historic England has been directed is the future of the chancel furniture. In support of their concerns Historic England disclosed the report of March 2026 written by Johanna Roethe, their Architectural Investigator. It was evident from the content of the report that aspects of the reasoning underlying the previous judgment required re-examination. Accordingly on April 6th, 2026 leave was given for Historic England to be joined in the proceedings and to apply for the faculty dated October 6th, 2025 to be set aside in part in relation to the disposal of the chancel stalls.
6. The same directions also made provision for the filing and service of written representations and for the determination of the matter upon such written representations. In addition to Johanna Roethe's illustrated report, which forms part of their case, Historic England have provided written representations extending to 37 paragraphs. In response the Petitioners have submitted representations to which some calculations and photographs have been appended. All these representations have been helpful in amplifying the material available when the first judgment was written.

Applicable Law

7. Paragraph 11 of the earlier judgment identified the cases of Re St. Alkmund, Duffield [2013] Fam. 158 and Re St John the Baptist, Penhurst [2015] WLD (d)115 as setting out the guiding principles applicable to the present case. Especially pertinent is the observation at paragraph 22 of Penhurst, that 'harm to the significance of the church as a building of special architectural or historic interest' in the Duffield guidelines is

"... directed to the effect of the works on the character of the listed building, rather than the effects of alteration, removal or disposal on a particular article."

Thus of primary concern is not the importance of the chancel seating as a rare if not unique survival in its own right, (highly relevant to the submissions of Historic England as that may be) but the harm to the significance of the church arising from the removal of this furniture from the fourteenth century chancel.

The Evaluation of Harm

8. Although written at short notice and largely based on secondary sources, Johanna Roethe's report casts fresh light upon the significance of the chancel stalls, and in particular the elements designed for children. It is revealed that the stalls may not be the work of Buckle himself, because the relevant re-ordering of the Chancel was funded by the Ecclesiastical Commissioners who perhaps supplied designs of their own. Whatever its origins may have been, the chancel furniture was, however intended to complement other aspects of Buckle's restoration.

9. As regards the potentially unique character of the stalls, the report explained that the survival of any church seating specifically designated for children is rare; that such seating is in a chancel is rarer still; and that no comparable example with the arcaded, recessed seating for boy choristers found at Compton Dundon has yet been found. Against this background, the significance of the set of furniture as a remarkable survival of great interest cannot be in doubt.
10. What, therefore is the significance of the stalls in the context of the listed building itself? The written representations of Historic England, while adopting and expanding upon Johanna Roethe's findings, address the question in paragraph 15:-

"The children's stalls contribute positively to the character, appearance, functions and status of the chancel as well as our understanding of the evolution of St. Andrew's Church and its worshipping practices."

The paragraph proceeds to reiterate the essence of Johanna Roethe's report,

"The formality of the seating provision for children and their ornamentation is also a unique survival within the national context, being the only known Victorian example that survives."

11. Of the matters brought within the scope of significance by Historic England, the contribution to the functions and status of the chancel seems somewhat overstated because the chancel currently lacks any function save as an obstacle between the nave and the altar, so that its status is thereby diminished. Likewise the understanding of the evolution of the church and its liturgy is by now well understood (not least as a result of the researches arising from the present case) and does not necessitate the visual reminder of the choir stalls themselves. More compelling is the contribution of the stalls to the character and appearance of the chancel. In this respect loss of the chancel seating would indeed be harmful. The degree of harm is to be evaluated by placing this example of Victorian workmanship in the context of a relatively compact and (despite restoration) substantially unaltered example of mediaeval architecture. The photographs of the interior demonstrate how effectively the mediaeval character has been preserved, and to which the chancel furniture makes at best a limited contribution. A fresh assessment of the degree of harm to the significance of St Andrew's Church still leads to the conclusion that such harm would be moderate, despite the historic interest of the chancel stalls as items of furniture, representative of a particular era and liturgical style.

The Petitioners' Case

12. Where there is a finding that harm will result from the Petitioners' proposals, it is for them to establish that there are reasons for change which outweigh such harm. Their representations seek to justify the desired alteration to the chancel.
13. It is not seriously challenged that the chancel stalls are redundant in the sense that they have ceased to fulfil their intended function of accommodating a choir of men's and boys' voices. There is no reasonable prospect of a traditional church choir being revived in Compton Dundon, nor of the stalls being adapted to other uses. Left in their present state, they would simply stand as mute reminders of a choral tradition which, according to Johanna Roethe's researches, was already fading at the time of their installation.

14. The Petitioners' aims are conveniently summarised under the heading "Objectives for the Chancel Reordering" in their representations:-
- " • To recreate a worship space in close proximity to the high altar (currently the congregation sits more than 10m from the altar.....)
 - To establish an intimate space with comfortable seating for worshippers, that accommodates our Sunday congregation.
 - To provide an area within the church capable of being heated and lit both effectively and sustainably negating the need to heat and light the whole building."
15. In summary of their needs, the Petitioners wrote,
- "The present situation only allows worship to take place in the larger nave, which has a considerable effect on operational costs, particularly regarding heating and lighting. This inefficiency underscores the need for a more practical and sustainable solution."
16. The desire to create a more intimate space for worship close to the altar is realistic in the context of a rural church with a relatively small regular congregation and inevitable financial constraints. The Petitioners' case in favour of putting the chancel to proper liturgical and practical use is compelling.
17. The Petitioners' contentions in respect of the enhanced use of the chancel are to an extent recognised by Historic England, who suggested by way of compromise that the rear rank of adult benches on each side might be removed and the children's stalls and frontals set back against the chancel walls. That arrangement has been the subject of an analysis by the Petitioners of the available floor space within the chancel. The total floor space is 26.2 square metres, of which more than half (13.95 square metres) is occupied by the present seating; the vacant floor space would accommodate five closely packed chairs. In the absence of the adult benches, the vacant space rises to 17.2 square metres accommodating a maximum of 15 chairs. That maximum rises to 36 with the chancel fully cleared, although the Petitioners preference in that instance would be for 22 chairs more widely spaced.
18. These calculations, although informative, do not provide a complete picture because the children's stalls and frontals backed against the walls would still create a central corridor into which to fit the chairs, rather than providing the flexibility inherent in the full width of the building. Furthermore in terms of aesthetics something of the spaciousness and simplicity of the mediaeval layout would be lost, with the unused stalls detracting from the focus upon the altar.
19. Commendable as the potential concession of Historic England may have been, it fails to meet the full potential of the chancel as a compact yet convenient space, architecturally enjoyable in its own right, to meet the present legitimate requirements of the parish.

Conclusion

20. An entirely fresh consideration of the merits, aided by the parties' representations and Johanna Roethe's admirable report, has led to the conclusion that despite the harm arising from the removal of the chancel seating, its loss to the church is necessitated by the current and foreseeable needs of the parish. The application to vary the faculty of October 6th, 2025 has therefore to be dismissed. The faculty with the conditions attached to it including the important condition 3 (prohibiting the disposal of the chancel stalls until a further order is obtained) will remain in force as it now stands.
21. In endeavouring to apply the Duffield and Penhurst principles to the circumstances of this case the Petitioners' subsidiary submission, that any change in the outcome of the first judgment would have adverse pastoral consequences, has been disregarded. Given the unfortunate procedural background mentioned in paragraphs 2 and 3 above, Historic England became entitled to a decision based upon a strict application of the law unaffected by extraneous considerations. Even though their application has failed, the present judgment has sought to meet their expectations of procedural fairness.

Costs

22. These faculty proceedings having been unopposed down to the directions of April 6th 2026, the Court fees before that date will be payable by the Diocesan Board of Finance. Thereafter the Court fees are payable on the basis that the case has been contested, with the result that the Petitioners have to bear that expense unless Historic England can be shown to have behaved unreasonably. The intervention by Historic England was reasonable, otherwise the application to be joined as a party would have been dismissed as unsustainable. Unless an application to the contrary is made within 28 days, the Petitioners shall therefore pay the Court fees to the extent indicated above in a sum to be agreed with Registrar, or determined by the Chancellor in default of agreement. In all other respects the parties shall bear their own costs.


Chancellor

Dated this 1st day of July 2026