

Diocese of Exeter
Chancellor

Date: 12th August 2009

Petitions: Re-ordering of All Saints' Church, Sidmouth

JUDGMENT

Background

1. By a petition lodged on 14th August 2008, a Faculty is sought to authorise a radical reordering of All Saints' Church in Sidmouth, which is a Grade II listed building dating from 1840. The application has generated reasoned and concerned opposition from a number of heritage bodies and other sources. Following a detailed consideration of the voluminous paperwork and following a site visit in May 2009, I concluded that a Faculty should issue authorising almost all of the matters for which application had been made. I therefore asked the Diocesan Registrar to inform the parties of that decision on the basis that this reserved judgment would be issued in August 2009.

2. The petition seeks authority for the following work:
 - a. removal of North and South galleries, including staircases and lobbies to both;
 - b. removal of all pews, retaining and relocating five on West Gallery; introduction of 254 chairs (metal framed to nave and transepts) with claret upholstery;

- c. introduction of wooden framed chairs to chancel, with claret upholstery;
- d. disposal of pulpit, reading desk and lectern;
- e. disposal of existing fixed font;
- f. remove existing floor to church, retaining stone slabs to aisles for reuse in porch/greeting area;
- g. install new concrete floor (incorporating under-floor heating), finished with multi-flecked carpet tiles to whole church;
- h. new heating system to include under-floor heating, vertical radiators and new boiler;
- i. new lighting scheme;
- j. introduce new movable ambo and holy table;
- k. removal of existing organ, and installation of digital organ to South transept;
- l. install partial height, timber and glazed screen to East end to create chapel, incorporating three projection screens and parts of North and South Gallery fronts;
- m. replacement of external wooden doors with fully glazed doors;
- n. install sliding timber and glazed screen at West end to create meeting room, store and flower vestry;
- o. install removable platform with ramp, at crossing;
- p. install audiovisual system;
- q. redecoration of church (including ceilings);
- r. redecoration of all exposed beams;
- s. construction of external link between Church and hall;
- t. widen vehicular access and create additional parking area;
- u. relocate two plaques.

All to be in accordance with the specifications and drawings listed in the schedule to the Petition.

3. The Statement of Significance describes how, in the first half of the 19th century, this church was established as an alternative to the main parish church in Sidmouth and to provide for the increasing size of the worshipping population. The church was consecrated in 1840. It is of note that All Saints' is unusual in not having its own assigned parish. The church is designed in the Early English Gothic style and is constructed of local limestone ashlar to the principal elevations and with lias stone used on the north elevation. The church is cruciform in plan. The nave and transepts are 7m wide and each has a gallery supported by four cast iron columns.
4. Modest reordering has taken place in the past. In particular some pews were removed from the West Gallery in 1881 when an organ from the parish church was installed. In 1899 two pews were removed and the reading desk and pulpit were changed. The new pulpit and reading desk are in oak and the pulpit is mounted on a high stone plinth. In or about 1901 all the existing ground floor pews were replaced with oak pews and new matching frontals were installed to the galleries. In the 1920s oak panelling and a font were fitted at the Southwest corner of the nave. In 1957 the chancel ceiling was painted blue with stars. Redundant choir pews in the chancel were removed in about 1970 and an area to the west side of the North transept was cleared in 2000 to accommodate wheelchair users.
5. A modern church hall was built to the north of the church in 1969 and stands some 10 feet from the entrance to the North transept. Much of the ground around the church is used for parking.

6. A major feature of the reordering proposal involves the removal of the galleries hanging above the North and South transepts. In respect to this change the Statement of Significance states:

‘the proposal will necessitate the removal of the redundant galleries, staircases and the ground floor lobbies. The galleries have no significance for the congregation as their shallow pitch means that they cannot be used for worship. This creates more space for the new seating, provides more daylight to the crossing which will be the focus of the Liturgy, prevents an architectural and physical clash with the new East end screen, and removes columns which would obstruct visibility and seating layouts.’
7. The Statement of Need stresses the remarkable position at All Saints’ in having almost no physical parish. The church was built in consequence of "the dire relationships between Church parties in the early 19th century" and was constructed in the teeth of fierce opposition from the vicar of the parish church. The situation now, nearly 200 years later, sees All Saints’ playing a particular role within the Sid Valley Team Ministry which complements the provision and facilities provided by other churches in the team. All Saints’ is the focus for an evangelical style of worship and ministry, in contrast to the parish church which maintains a more traditional style of worship. The two main weekly Sunday services are a 9.30am informal service in the church hall attended regularly by 85 adults and 15 children, together with an 11am service according to Common Worship which is attended by some 90 adults.
8. The 9.30am service is attracting a growing congregation which has now outgrown the size of the village hall. A major driver behind the proposal to reorder this church is to enable this substantial congregation

to worship inside the church building. The Statement of Need describes it thus:

‘A major factor in our plans is the desire to create a worship space that enhances this more modern style of worship. We are longing to develop the atmosphere of worship by moving out of the rather utilitarian hall into the "sacred space" of the church building. ... We are seeking an open uncluttered space to facilitate a deeper encounter with each other and with the Risen Jesus. Part of the motivation for our more contemporary worship has been the need to make corporate worship more accessible to those with little church background.’

9. The Statement of Need argues that the removal of the North and South galleries is integral to the proposal as a whole. It describes how the space under the two galleries is little favoured by worshippers, and has an oppressive feeling of enclosure with an obstructed line of vision resulting from the four pillars on each side. The galleries themselves are never used as nothing can be viewed from them.
10. The aim of the proposal is to place the focus of the liturgical action at the centre of the church where the holy table, ambo, movable font or portable baptistery will be positioned. The chancel will be screened off from the nave with part of the screen being used to provide three projection surfaces for audiovisual display and/or presentation of written liturgical material for use in "paperless" services.
11. The organ, which was not original to the church, is seen as being architecturally incongruous in the West Gallery. The plan is to remove it and replace it with a digital organ which would be positioned on the ground floor in the musicians' area.

12. An informal pre-application discussion took place at the church on 22 January 2007. It was attended by representatives of the parish, DAC, English Heritage and Council for the Care of Churches (now called Church Buildings Council). The minutes of that meeting record that, overall, members were not convinced of the need to remove the galleries, which are at present an integral part of the original design of the church, and contain box pews which are possibly also original. It was suggested that this part of the scheme should be reconsidered, possibly with the introduction of glass fronting to the galleries to improve sight lines. Those attending the meeting also urged caution with regard to the removal of all of the pews.

13. On 19 February 2007, Jonathan Goodchild, on behalf of the CCC, wrote setting out detailed observations on the scheme which had by then been discussed at a meeting of the Council. The headline points within that letter are:
 - i. opposition to the proposed conversion of the South transept entrance door to a window;
 - ii. the case for re-seating the building is insubstantial and a circular seating pattern goes against the grain of the building;
 - iii. carpet would be a barrier to the underfloor heating;
 - iv. the council opposed the plan to remove the galleries. The galleries were felt to make a positive contribution to the interior and (together with the important historic seating) deserved to be retained;
 - v. the council opposed the introduction of a full height screen at the east end as this would have a very substantial adverse impact on the character of the church;

- vi. the future of the organ needs to be balanced against the need for meeting places, however the CCC comments that the present instrument works well and is appropriate for the church;
 - vii. in consequence the Council, regrettably, could not support the development of the current scheme.
14. It is plain from the DAC Minutes subsequent to the pre-application meeting that the DAC considered this application a number of committee meetings over the course of some time. A letter dated 22 January 2008 repeats the concern of DAC members that it has not been proven that the removal of the galleries will make a significant difference to the proposed form of worship. In relation to the pews, however, DAC members did not object but had some observations as to the design of substitute chairs. In relation to the disposal of the font, the parish were advised that the proposal needs reviewing in line with ecclesiastical law and the need to provide a fixed font. Other matters of significant detail were discussed in the course of this lengthy response from the DAC.
15. On 9 March 2008 the parish architect, Russ Palmer, responded in detail to the DAC observations. He provided drawings to illustrate that the provision of glass fronts to the galleries would only benefit those sitting on the front row of each gallery, but even they would have to crane their necks downwards to be able to gain a full view. He summed up the position with respect to the galleries in these terms:
- ‘In conclusion, I consider the removal of these two galleries central and fundamental to the success of the re-ordering scheme. Architecturally it will unify the two transepts with the retained length of the nave and bring a sense of equal involvement for all

members of the congregation. This would not be possible if the gallery columns, lobbies and staircases were retained as it would greatly restrict the seating layout and significantly reduce numbers.’

16. On the topic of the font, Mr Palmer's letter records that the incumbent understands that ecclesiastical law requires "a decent font" and that the proposals for a portable font accord with that requirement. Again, other matters of significant detail are dealt with this letter.
17. The DAC certificate, dated 23 July 2008, records that the committee had "no objection" to items a - q and s - u subject to certain provisos. The committee did not, however, recommend item r (re-decoration of exposed beams) for the following principal reasons:
 - i. the quality, depth, tone and hue of the proposed pale blue for the beams is wrong for the volume of the proposed space;
 - ii. the original dark stain would add character and be more faithful to what will be left of the C 19th interior;
 - iii. over-painting would be difficult and expensive; the stain might eventually leech into the painted surface; and dust and dirt on the painted surface would be more visible and difficult to clean.
18. It follows that the conclusion of the DAC appraisal of this project was to indicate "no objection" to the principal elements of the scheme. The minutes, which the court has read in full, show firm and fully reasoned opposition to the scheme from a number of individual DAC members, whose views this court has come to respect over the course of time. In the event six members opposed the proposals, with the majority, nine, being in favour of ‘no objection’.

19. On 30 July 2007 East Devon District Council granted planning permission and listed building consent for the extension link between the church and the church hall together with subsequent alterations to the entrance and car park.
20. A Public Notice was displayed in August and September 2008. That elicited over 70 letters in support of the scheme and two expressions of opposition. The letters in support, many of which are in standard form, indicate a substantial body of those who know this church and who favour these radical alterations.
21. In their letters of objection, Mrs Catlin and Mrs Mountford, acknowledge the need to refurbish the building, but explain that a number of local people do not want 'the interior of our church desecrated' and see 'the removal of ... the heart of the building ... [as] very wrong'.
22. Mr Garrard, historic churches adviser for the Victorian Society wrote in January 2008 expressing strong objection to the removal of the two galleries. He states:

'The [galleries] are part of the original fabric of the church, and are a vital element in its Victorian plan form. Their removal would severely damage the historic and architectural character, for the sake of a benefit that seems at best marginal. We feel strongly that they should remain.'
23. The Victorian Society also expressed regret at the proposed partitioning of the chancel and urged a more imaginative approach to this area.

24. In an email dated 1 October 2008, Simon Ramsden on behalf of English Heritage, formally objected to the scheme and urged its replacement with a more modest proposal which was more sensitive to the historic significance and interest of the building. The parish architect responded the following day to the effect that, whilst Jenny Chesher attended the pre-application meeting in January 2007 and urged reconsideration of the central and more radical elements of the proposal, she indicated that English Heritage did not need to be further consulted, and made no caveat that, if the original proposals were pursued, English Heritage would wish to be formally consulted again. He also pointed out that Mr Ramsden had never visited the church and was relying on Ms Chesher's note of that meeting.
25. The vicar of All Saints', Rev Roger Trumper, wrote on the 5 October 2008 emphasising that the current scheme arises out of many years of discussion within the local church and stressing that there is no possibility that the sort of modest proposals suggested by English Heritage would meet the congregation's needs for this building.
26. On 25 November 2008 this court gave directions on the basis that what was proposed removal of the galleries amounted to "demolition" under Care of Churches and Ecclesiastical Jurisdiction Measure 1991, s 17 and that therefore there was a need for formal consultation on these proposals with statutory bodies including English Heritage and the Church Buildings Council. Those directions were given on the basis that, even if what was proposed did not trigger a s 17 consultation, the scale of this project and the views expressed at the pre-application meeting were such that it was necessary to consult with those bodies at that stage.

27. On 5 January 2009, Jonathan Goodchild, on behalf of CBC, wrote explaining that, since early 2007, the Council had had no further details of the scheme and therefore required copies of the petition and accompanying documents.
28. By letter dated 12 January 2009, Stephen Guy, Principal Conservation Officer for East Devon District Council, wrote asking that consideration should be given to retaining the galleries as part of the character and evolution of the church building. He suggested that they could be screened off and used as meeting rooms. He urged careful consideration with regard to the proposed removal of furniture and fittings from inside the church.
29. On the 21 January 2009, David Garrard, on behalf of the Victorian Society, wrote and referred back to his earlier response of January 2008 in which most of the reordering proposals were accepted, but opposition was expressed to the removal of the two galleries. In his 2009 letter Mr Garrard expresses extreme disappointment that the Victorian Society's earlier comments had not been taken into account. He goes on to repeat that the damage to the architectural and historical integrity of this church from the removal of the galleries greatly outweighs any benefit that might thereby arise. Accordingly, the Victorian Society strongly objects to this part of the petition.
30. By letter dated 29 January 2009, Simon Ramsden set out the formal position of English Heritage. That letter does little more than repeat the short statement of objection contained in his October e-mail.
31. On the 7 April 2009, Jonathan Goodchild wrote setting out the concluded position of the CBC following a recent meeting. In essence

the council's position remains as it was in 2007. The case in support of the work is considered to be insubstantial. The provision of a full height screen at the East End is undesirable (in fact by that stage the screen had been reduced from full height). The case for the removal of the organ is not backed up by any report on the condition of the instrument or quotation for repair.

32. In relation to the font the CBC make the following observation:

‘as far as the font is concerned, there appears to be no good case for the disposal of the existing font, since it could be located near the entrance to the building in accordance with Canon F1(2). It is disappointing that the parish has not acted on the council's suggestion of consideration of the type and position of the font. The current proposal to introduce a second font for immersion goes against the guidance of the House of Bishops that there should only be one font in a church. It would have been possible, for instance, to design a font, perhaps incorporating the existing font, that permitted different modes of baptism. It is important that the font has its own defined position in the building.’
33. The CBC does not seek to give oral evidence but asks that this court should take these views into account when determining the petition.
34. On the 27 April 2009 the vicar and churchwardens wrote directly to this court recording that at the annual parish meeting "there was overwhelming dismay and even anger at the continuing delays in achieving a faculty for work approved by the DAC in its certificate dated as long ago as 23 July 2008". The letter drew attention to the damaging effect on the morale of parishioners and the consequential

and real threat to the success of the church's ability to address the challenge of increasing church attendance by 25% in the next five years.

35. Having referred to that letter, it is right to observe that the delay encountered in early 2009 arose from the fact that the parish had failed to engage the CBC in consultation on the development of this scheme during the two years that followed the pre-application meeting. The parish's failure was an obvious omission both in terms of first principles but also in the light of the express recommendation in the DAC certificate advising the parish to consult a list of bodies including the CBC. Secondly, it is right to observe that the DAC did not 'approve' the work, as suggested in the parish's letter, but simply determined that it had "no objection" to the scheme. Be that as it may, the court takes full note that this letter provides further evidence of the strong local feeling in support of the scheme.
36. On the 6 May 2009, Revd Trumper wrote setting out the petitioners' response to the various objections that had been received from the heritage bodies. He makes the following principal points:
- i. the blanket objection by EH completely fails to respond to the need to change as described by the parish. If it were possible to worship in a contemporary style within the present building, such worship would have been taking place for a long time;
 - ii. the parish has experimented with various forms of "a more modest scheme" none of which has been found to satisfy its requirements;
 - iii. the parish has already compromised on the design of the East end screen;

- iv. there are major benefits from the removal of the two galleries, namely increased daylight, less restriction in the placement of furniture, improved sight lines and increased floor space close to the centre of the liturgical activity;
- v. the retention of the West Gallery is an important part of the scheme;
- vi. the whole argument in support of the scheme depends upon a modern, rather than a Victorian, understanding of the needs of worshippers;
- vii. the heritage bodies have failed to understand this parish's needs in modern worship. Traditional worship is maintained to a high standard elsewhere in the locality. The objectors do not seem to have grasped the depth of the problem of facilitating modern worship in a Victorian building.

37. Following the Court's initial consideration of these papers, a request was made for evidence from others outside the petitioners and congregation of All Saints' as to the liturgical and pastoral considerations that may be relevant to this application. I am grateful to the Bishop of Crediton, the Archdeacon of Exeter and Prebendary David James (Team Rector of the Sid Valley Team) for their responses to this request.

38. In his letter of the 8th June, the Bishop of Crediton states that he has no doubt that the scheme is 'essential to the ongoing development and ministry of this significant church in the heart of Sidmouth'. He confirms the growth in the congregation who value worship with a contemporary feel and he goes on to say:

'I recognise that the proposals are radical in the way they reorder the interior of the Church building, but I believe the scheme contains

all the necessary elements to transform the interior into a building where worship can be sensitively offered as well as being a resource for mission into the wider community. ... The outcome of a successful reordering scheme will be that the Church building will be released to take its central part in the developing worship and missional life of this active congregation ...'.

39. In his letter of 30th May, Revd Prebendary David James provides a strong endorsement for the case put forward by the parish, both in terms of the value of its mission within the wider team ministry, the fact that the 9.30am congregation is outgrowing the building and the need for the galleries to be removed to open up the space within in the church for contemporary worship.
40. The Archdeacon of Exeter has expressly endorsed the content of the letter from Revd David James.

Site visit on 27 May 2008

41. On the 27th May 2008 I visited All Saints' Church in order to understand more clearly the layout of the building and to see for myself the impact of the matters referred to on paper both for and against the proposal. I was guided round the building by Revd Trumper, who had been asked to refrain from arguing his cause (in the absence of any objecting party). The Archdeacon of Exeter and Mr Alan Ball from the Diocesan Registry were also in attendance.
42. The visit proved to be a useful exercise and allowed the court to experience directly the dimensions and set up of the church in its present state, as well as increasing one's understanding of the proposed changes and their impact.

43. Whilst not wishing to catalogue every impression gained during the visit, one or two matters are of note:
- i. the low angle of the North and South galleries and the narrowness of the space between them make it impossible for anyone seated there to have a view of activity taking place at the proposed centre of worship. Having asked why the galleries might have been constructive in such a configuration, I was told that the original pulpit in the church had been raised on a substantial pedestal so that the preacher was fully visible to those seated in the gallery. However, that pulpit had been removed in 1899 and since then the galleries had been effectively redundant. Whilst the redundancy of the gallery space is seemingly accepted by all who have commented on this scheme, nevertheless the fact that this is so was strikingly demonstrated to the court during this visit;
 - ii. the box pews in the gallery, which are original and are good examples of that style, are, however, replicated by the pews in the West Gallery;
 - iii. the proposal to take some of the pews from the ground floor and insert them into the West Gallery in place of the organ simply so as to maintain an example of that much later type of pew, may well create an incongruous mismatch of pew style in that gallery;
 - iv. the experience of a visitor to the church entering through the doors beneath the North or South galleries is an uninviting one. The visitor passes through a narrow corridor created by the boxing in of the staircases leading up to the galleries. It was possible to understand the effect of opening up all the space if the galleries are removed together with the staircases

and the current enclosed lobby. The effect is likely to be far more welcoming, allowing the visitor to see the whole of the church opened up as soon as they walk through the door;

- v. this is not a big church. The effect of the galleries is to accentuate the linear/cruciform structure of the building. This current structure, with sightlines and pew seating all in lines or at right angles to each other, seems totally at odds with a circular seating pattern. If the galleries are to remain, there is a strong argument against the removal of the ground floor pews and the introduction of circular seating. In this regard the strength of the point made by the CBC to the effect that a circular seating pattern goes against the grain of the building is plain to see.

Discussion and decision

- 44. In an application such as this the burden of proof lies upon the petitioners who are proposing a radical change from the status quo. It is now settled law following the Court of Arches decision in *Re St Luke the Evangelist, Maidstone* [1995] Fam 1 that the court must address the, so-called, *Bishopgate* Questions, namely:
 - a. Have the petitioners proved a necessity for some or all of the proposed works either because they are necessary for the pastoral well-being of the parish or for some other compelling reason?
 - b. Will some or all of the works adversely affect the character of the church as a building of special architectural and historical interest?
 - c. If the answer to (b) is yes, then it is the necessity proved by the petitioners such that in the exercise of the court's discretion a faculty should be granted for some or all of the works?

45. 'Necessity' is a broad concept which includes works "necessary for ... pastoral well-being ... or some other compelling reason". In *Re St Luke the Evangelist, Maidstone*, Chancellor George offered a definition of "necessity" in this context as meaning "something less than essential, but more than merely desirable or convenient; in other words something that is requisite or reasonably necessary".
46. The petitioners therefore face a substantial burden in persuading the court that the radical changes that they propose to this listed building are required or are reasonably necessary to meet the pressing pastoral need that they describe.
47. It appears to the court that the pivotal decision is whether or not the galleries are to be removed. If they are, then much of the ancillary detail of the scheme will also be justified. If they are not to be removed, then the justification for the balance of the scheme as a whole may also fail to be justified.
48. On the evidence that has been filed the petitioners have satisfied the court that there is a strong pastoral case. The question in due course will be whether that case is sufficiently strong to justify the radical change that they seek. In summary, the evidence in support of the strong pastoral case is as follows:
 - i. this is a thriving church community which, despite having no defined parish, and despite being close to the established parish church, draws in around 100 attendees to each of two separate Sunday morning services;
 - ii. one of those services, which favours contemporary styles of worship, does not take place in the church building at all, but would move into the church if the proposed changes are

made. That congregation is at the point of outgrowing the church hall and, if it cannot move into the church building, its potential for future growth will be thwarted;

- iii. the pastoral case is evidenced not only by the submissions of those directly involved in these congregations, but also by the suffragan Bishop, Archdeacon and Team Rector. The Bishop of Crediton considers that the changes are "essential" to the continuing development of this congregation;
- iv. the galleries are of no use to those attending services in this church, and have not been so used for over 100 years. The removal of the galleries is seen as being "central and fundamental to the success of the reordering scheme".

49. The case in favour of retaining much of the current internal structure of the building is also strong and well supported by evidence as to its heritage value. Again, in summary, the principal points are:

- i. the galleries are an integral part of the original Victorian design of the church;
- ii. the box pews within them are also original;
- iii. the removal of the galleries will severely damaged the historic and architectural character of the building;
- iv. galleries had once been common in many churches, but are now few and far between making the case for the preservation of these galleries all the stronger (per Hugh Harrison, DAC minutes).

50. In this case, the heritage arguments and those of the parish's liturgical and pastoral needs collide head-on. The court accepts that all reasonable, less radical compromise suggestions have been properly considered and rejected by the parish for good reasons. The principal

suggestion was for the present frontage of the galleries to be removed and replaced by glass. Having considered the architect's drawings in relation to this, and having sat in the North gallery in order to see how such a proposal might work, I accept the opinion of the architect and the petitioners to the effect that the proposal would achieve little or no improvement on the current situation in which the galleries are in effect not of any use for observing services.

51. It is, in my view, not without significance that this church was originally established in order to meet the needs of a progressive element within the worshipping population in Sidmouth. In that manner the role of All Saints' in the modern world is in tune with that for which the building was originally constructed. For the progressive and contemporary plans of the current generation of worshippers to be thwarted by a need to preserve the building designed by their forebears is, at the very least, ironic. It is, on one view, in keeping with the spirit in which the building was built for it now to be adapted so that it can continue to provide a liturgical home for those who wish to worship in a more contemporary style.
52. A factor which weighs heavily in this Court's appraisal of the merits of this case is the fact that these galleries are truly redundant in terms of their usefulness to the congregation and have been so for very many years. If they are to be preserved then that will be solely in order to respect their historical and architectural importance. To those who use the church, they will remain a useless ornament to the building. Indeed, the term "ornament" applies to the galleries themselves, but cannot be used to describe the ancillary structures beneath them and around the stairway and entrance into the church. These latter parts of the structure

would seem to have no historical importance and are cramped, dingy and without any positive attribute.

53. As I have already indicated, I consider that the case based on the congregation's pastoral and liturgical needs is fully made out. I accept that the form of modern worship which this substantial and growing congregation favours cannot be undertaken within the confines of this Victorian building as it now stands. If permission for this reordering is refused, then the opportunity of drawing some 50% of the worshipping population into the church building will be lost. Further, there may well be a falling off in the ability of that congregation to grow and/or to remain attached to this particular church given that the confines of the church hall have now been reached.
54. Given the strength of the arguments on both sides, the conflict between the Heritage considerations and the pastoral needs of the individual's who use the building worship is set in stark relief. The needs and values of each side of the divide cannot both be met and a decision is called for. That decision, as I already indicated, has to be made on the basis that the burden is on the petitioners to establish the need to change and that they must do so by having the *Bishopsgate* questions answered in their favour.
55. The court is very grateful for the considered and thoughtful submissions that have been made from all sides. Having now considered these matters in detail, my conclusions are:
 - a. the petitioners have satisfied the court that the major part of the proposed works is necessary for the pastoral and liturgical well-being of the worshipping congregation. I am satisfied that these carefully thought through plans have been developed not merely on the basis

that they are desirable or convenient. I accept the evidence is that they are required in order that the needs of those who now use the church can be met. If proof were needed, then the very fact that half the congregation do not worship in the church building, but would do if these changes are put through, demonstrates the 'necessity' for this work to be undertaken;

- b. equally, the removal of the galleries and the general move away from the rectangular/cruciform layout will adversely affect the character of this church as a building of special architectural and historical interest;
- c. the key question is, therefore, whether the need established by the petitioners is such that the court's discretion should be exercised in their favour, notwithstanding the historical and architectural value of what is to be removed. Put another way; is the reordering scheme 'proportionate' to the need to adapt the space for worship?

56. Despite giving significant weight to the heritage value of what is to be removed, I nevertheless have concluded that the need to change in this particular case is made out to such a degree that radical reordering of this nature is justified. In determining this 'proportionality' question, I consider that the needs of the church as they have been set out could not be met if the galleries were to remain in place. Secondly, in terms of proportionality, the court has in mind the fact that there are three such galleries in this church, one of which, the West Gallery, is to remain in place as an example of the original architecture and containing good examples of the original boxed pew seating.

57. I will therefore direct that a Faculty be issued giving broad approval to this scheme of reordering. What now follows focuses on specific details of the scheme on the basis, as I have described, that the key question is

whether or not the galleries are to be removed. If they are, then the case of the petitioners also justifies the other ancillary changes that are made.

Specific details

(a) The Font and Baptistry

58. The petitioners' case in relation to the font is not made out at present. In the course of this judgment I have already drawn attention to the observations of the CBC in relation to the font. Canon F1 provides that the font must stand as near to the principal entrance of the church as conveniently may be, 'except there be a custom to the contrary or the Ordinary otherwise direct'. The present font does indeed stand near to the west door. The petitioners have failed to find evidence to establish a custom to the contrary or a direction from the Bishop.
59. The legal position with respect to fonts is not as straightforward as Canon F1 may suggest. It is for the petitioners to make a case in accordance with case law and in the light of *The Response by the House of Bishops to Questions Raised by Diocesan Chancellors* [June 1992]. The court would also wish to have the views of the Archdeacon and the Diocesan Bishop with respect to the proposals for the use of a portable font and baptistry.
60. A further impediment to granting a faculty with respect to the font and baptistry at this stage is that no information seems to have been provided about them in the paperwork supporting the Petition.

(b) The Organ

61. The court has considered the observations of the CBC with respect to the organ and notes that the petitioners' case is not supported by any

evidence of the current health of the present organ or the costs of refurbishment. The case with respect to the organ is not however based upon its state of repair. The petitioners' case, as with the remainder of their proposal, is that this organ is no longer conducive to the style of worship that is pursued at All Saints. That style is based on a group of musicians playing together or alone from the front of the church in sight of the congregation. For all of the musicians, bar one, to be in the musicians area, but the other to be in the organ loft at the back of the church would seem to be a dysfunctional arrangement. One anticipates that even if the organ were not removed, the musicians would wish to import a portable organ with the result that the older instrument will become redundant.

62. In addition, the removal of the organ will liberate a source of light in the church from the West window.
63. The DAC had given approval for the removal of the organ at an earlier stage of the development of these plans. The minutes of the 2007/08 DAC discussions do not record any opposition to the removal of the organ.
64. In the circumstances, and despite the advice of the CBC, I regard the removal of the organ as part of the overall modernisation of this church which, for the reasons that I have given, is justified and therefore to be permitted.

(c) Pews in the West Gallery

65. Item (b) in the schedule of works provides for the retention and relocation in the West Gallery of 5 pews from the nave. The purpose of

this retention is to retain evidence of these pews within the church and the proposal is to insert them into the space vacated by the organ.

66. None of those who have commented on the proposals have made express comment on this part of the scheme. No correspondent suggests that these pews, which date from 1901, are of any significant interest in themselves. The box pews, however, are said to be of historical interest. The court assumes that before the organ was installed in this gallery in 1881, the space was occupied by additional box pews. In the circumstances, and on the basis that the box pews from the North and South galleries are to be removed, I consider that the gap occasioned by the removal of the organ should be filled with box pews from these now redundant galleries. The result is likely to look much less incongruous than the insertion of five rows of pews from the nave in that space.

67. The Faculty as granted will therefore include a requirement that the words 'retaining and relocating 5 on West Gallery' are deleted from (b) in the schedule of work, but that (a) in the schedule is amended to require box pews removed from the North and/or South galleries to be inserted in any available spaces within the West gallery following the removal of the organ. I direct that the precise relocation of these pews is to be approved by the DAC prior to work being undertaken to install them.

(d) Painting exposed beams

68. The petitioners wish to paint the exposed roof beams in a light pastel shade of blue. Examples of a similar exercise from Nailsea have been produced to demonstrate the overall effect. It is in relation to this item

that the DAC stands firm and has issued a 'not recommended' decision. The DAC reasons are set out at paragraph 17 above.

69. Whilst appreciating the architect's desire to lighten up the interior of the building by painting the beams in this manner, I find, having looked at the beams during my site visit, that I am in agreement with the DAC on this issue for the reasons that they give.
70. If, once all of the other work is completed, the beams are seen to be out of place, or the case for painting them in a light colour may be more clearly made, then the petitioners may wish to seek for this decision to be reviewed, but for the present I refuse the application for item (r) in the schedule.

(e) DAC provisos

71. Finally, in the absence of any objection from the petitioners, I regard the provisos set out in the DAC letter of 23 July 2008 to be reasonable requirements and I therefore will direct that the Faculty is granted on condition that each of those provisos is satisfied.

Sir Andrew McFarlane
Chancellor of the Diocese of Exeter