

1. Holy Trinity is a Grade II* listed church in Hastings, by the eminent Victorian architect, Samuel Sanders Teulon. It faced a period of decline from the 1990s and was without an incumbent from 2010-2014, when it came under the leadership of a team from St Peter's, Brighton, which is part of the Holy Trinity Brompton ("HTB") network. Its congregation has since grown. Its Sunday morning services now comprise a sung Eucharist and then an informal service described as "band-led worship making use of a stage and screen".
2. These proceedings concern a petition received on 6 December 2017 for proposed works at the church. The petitioners were the incumbent, the Rev'd Simon Larkin, and the churchwardens, Mr James Kirby and Mr Rob Worthing. That petition described the schedule of proposed works as follows (numbering inserted by me for ease of reference):

"Re-order and alteration to the interior, including:

1. *Provision of storage within the nave and south aisle*
2. *Provision of relocatable dais/ stage within the nave*
3. *Renewal and re-levelling of the floor of the nave and south aisle with underfloor heating including removing raised dais at east end of nave to original floor level*
4. *The conversion of the crypt below the chancel into additional facilities*
5. *Provision of toilet facilities including accessible W.C.*
6. *Removal of pews in the nave and provision of chair seating; retaining five long pews and providing two short pews within the Lady Chapel*
7. *New access to upper meeting room at east end of church with part replacement glazing and opening windows*
8. *New heating installation*
9. *New lighting installation*
10. *Relocation of font within nave*
11. *New inner glazed doors to the 'tower' entrance retaining original outer doors. Removal of upper vestry and returning to the original architectural concept of the entrance*
12. *Relocation of flag standards"*

3. Those proposals had been refined as part of an iterative process of consultation over the period 2015-2017 with relevant stakeholders, notably Historic England, the Diocesan Advisory Committee for the Care of Churches (“DAC”), the Church Buildings Council (“CBC”) and the Victorian Society. It is unnecessary to detail those consultations here, though I will say a little more below about certain points made in correspondence.
4. Insofar as planning permission was required for the proposed works, it was granted (subject to conditions) by Hastings Borough Council on 12 December 2017.
5. Public notices were duly displayed, and no objections were received. However, on 26 January 2018, the Victorian Society confirmed that it wished to be joined as a party opponent and duly submitted Particulars of Objection in Form 5. It explained that its objections concerned (i) the loss of the original floor, (ii) the types of chairs proposed to replace the historic seating, and (iii) the replacement of the opaque glass in the upper room, i.e. aspects of items 3, 6 and 7 from the numbered list of proposed works set out above.
6. The petitioners replied to the Victorian Society’s objections on 19 February 2018. They explained that they were prepared to give way on two of the Victorian Society’s objections, namely the loss of the original floor and the opaque glass in the upper room. The petitioners have subsequently reiterated their confirmation that the historic tiled flooring in the aisles and the existing opaque glass in the upper meeting room would be retained. This judgment proceeds on the footing that the petition has been duly amended to reflect those commitments on the part of the petitioners.
7. The petitioners, however, stood their ground in the fact of the Victorian Society’s sole remaining objection, which concerns the type of chair that will be used once the pews are removed from the main area of the nave, as envisaged in the petition. That is the pivotal issue in these contested proceedings.
8. The petitioners wish to use the SB2M chair by Alpha, a stackable chair with a chrome frame and an upholstered seat and back. The upholstery will be in a muted grey (or “mineral tweed” colour). The Victorian Society does not object to the colour *per se*.

9. Rather, the Victorian Society objects to the SB2M chair primarily because it is upholstered, though it also has a preference for a wooden chair rather than a metal one. As the Victorian Society explained in its letter of 4 May 2018, it continues *“to advocate a higher-quality, more appropriate chair, one that is preferably both timber-framed and – most importantly – un-upholstered”*. Its view is that two alternative chairs would be acceptable: the “Theo” chair (a wooden chair that could be stained to a suitable shade) and the “Howe 40/4”, which has a metal frame but no upholstery.
10. The contested issue in these proceedings is therefore whether faculty should be granted for use of the Alpha chair. Both the petitioners and the Victorian Society confirmed that they were content for these proceedings to be determined without an oral hearing.
11. Before I address the issue of the Alpha chair, I record that I am otherwise content to grant faculty for the proposed works as set out in paragraph 1 above, as amended (see paragraph 6 above), subject of course to compliance with the conditions attending the grant of planning permission. In broad terms, this is because (leaving aside the choice of replacement chair for the moment), the amended proposals appear to me to have been carefully and extensively considered by a number of experienced and expert consultees as outlined above, without objection. I note, for example, that as regards the proposed removal of pews (which of course opens up the issue of the choice of replacement seating), Historic England have said as follows (letter of 13 January 2017):

“We understand that fixed seating of this nature is not compatible with the worship style of Holy Trinity Hastings, and while in usual circumstances we would encourage partial retention, or adaptation of pews to increase flexibility, we are persuaded here by the needs of this particular congregation. There is also the requirement and further potential for the church to be used for large scale community activities such as youth events, concerts etc. We are also mindful of the vulnerability of the church to closure, until recently.”

12. I set out that extract here because, while it concerns the removal of the remaining pews in the nave (some pews having already been removed in bygone years), Historic England’s rationale is in my view also relevant to the question of whether the Alpha chair is appropriate here. In particular, Historic England suggests that:

(a) this church had been vulnerable to closure until it came under the leadership of a team from the Holy Trinity Brompton network in 2014, and

(b) decisions about seating should take into account the suitability of seating for the particular style of worship that has been integral to the favourable reversal of this church's fortunes since 2014.

13. For those reasons, Historic England was content with the proposed removal of the remaining pews from the nave. I too am content on that point, particularly given the DAC's support and the fact that the Victorian Society does not object to the removal of those pews. In other words, by application of the approach articulated in *Re St Alkmund, Duffield* [2013] Fam 158 at [87], I conclude that (i) the removal of the remaining pews from the nave would result in a material (but not serious) degree of harm to the church as a building of special architectural or historic interest, but (ii) there is a sufficiently clear and convincing justification for doing so. I reach the same conclusions in respect of the other aspects of the amended petition. Given the positions of the consulted stakeholders, I need not elaborate further on my reasons for granting faculty in respect of the uncontested aspects of the amended petition.
14. I turn then to the question of whether the Alpha chair is a suitable replacement for the pews.
15. In support of the proposed use of the Alpha chair, the petitioners rely primarily on their petition and supporting documentation (which includes pictures of the Alpha chair), their correspondence with consultees and a witness statement from the vicar, the Rev'd Simon Larkin, dated 6 July 2018. Mr Larkin's statement is endorsed by a witness statement from the inspecting architect, Peter Pritchett.
16. Mr Larkin's statement repeats and distils the reasons that have been consistently advanced by the petitioners in support of the Alpha chair, namely:
 - (1) The Alpha chair is better for acoustics. In my view, the evidence on this point is speculative, and does not materially assist my decision either way. I have not been provided with input from anyone with expertise in acoustics.

- (2) The Alpha chair is more comfortable than other options. Mr Larkin’s statement summarises a sampling exercise undertaken by 11 members of the congregation, the outcome of which favoured the Alpha chair. I am not persuaded that this very limited exercise should be given significant weight in the overall assessment of the suitability of the Alpha chair.
- (3) The Alpha chair is better value. Mr Larkin’s cost estimates are £48,000 for the Theo, as opposed to £11,000 for the Alpha. I am prepared to give a limited amount of weight to this factor, though I note that the petitioners do not suggest that they would struggle to afford the Theo chairs.
- (4) The Alpha chair has been used in other significant Victorian churches. Two specific examples from within the Diocese of Chichester are relied upon. I accept that other examples help to show that the Alpha chair could be suitable in principle, though this factor is not decisive without further examples .
- (5) The Alpha chair is light and easily lifted. I do not give weight to this point. As Mr Larkin accepts, the Theo chair is in fact lighter.
- (6) The Alpha chair fits the context of the church. Mr Larkin says *inter alia* that “*at Holy Trinity, there is currently a juxtaposition of the Victorian architecture with the contemporary stage, lights, drums and guitars*”.
17. In my view, that final consideration is the petitioners’ most persuasive point, and attracts significant weight. Such juxtaposition for its own sake is not necessarily a positive – indeed, the opposite will often be true. I do, however, give weight to this point because it chimes with Historic England’s reasoning as regards pew removal (see paragraphs 12-13 above). I accept that a particular style of worship has been integral to the rejuvenation of Holy Trinity, and that the Alpha chair is a suitable complement to that style of worship.
18. I also give significant weight to the views of the DAC. The DAC is content to recommend the Alpha chair for approval in this case. In its letter of 22 May 2018, the DAC explained that it “*disagreed with the Victorian Society’s opinion that this chair was*

inappropriate for the context, noting that the Alpha chair had been used successfully in other listed churches in the Diocese and that chairs are a temporary feature which have no impact on the fabric and are fully reversible” (DAC’s letter of 22 May 2018). In accordance with my directions, the DAC reviewed its position in light of the input of the parties and confirmed by letter of 14 September 2018 that it maintained its support for the Alpha chair in this case. In that letter, the DAC said that it had nothing further to add to its letter of 22 May 2018. The DAC did point out, however, that one member of the DAC *“requested that the minutes reflect that she did not support the Committee’s position and still felt that these chairs were not appropriate in the context of a listed building”*.

19. That minority view of the DAC supports the position of the Victorian Society, which has consistently opposed the use of the Alpha chair in this case. In contesting this aspect of the petition, it relies on its letter of 4 May 2018. Its case is that the Alpha chair is not suitable *“in any nationally important historic church building”*. As I have recorded above, the Victorian Society’s primary objection is that upholstered chairs are unsuitable in this context; in addition, it argues that wooden chairs (such as the Theo chair) are more suitable.
20. In support of its position, the Victorian Society relies on two main points. One is that a number of Consistory Court judgments have reflected on this issue and have broadly supported the use of un-upholstered, timber-framed new seating as replacements for pews. I agree with that broad proposition, though it should not be elevated to an inflexible rule. My view is that, while un-upholstered, timber-framed new seating is generally preferable in such contexts, the particular circumstances of this case (see in particular my paragraph 17 above) justify a different approach.
21. Secondly, the Victorian Society understandably relies on the CBC’s “ChurchCare guidance note on seating”, which says *inter alia* that:

“... the Church Buildings Council generally advocates the use of high quality wooden chairs (i.e. unupholstered) and pews where seating is necessary. The Council’s experience is that wooden chairs have the greatest sympathy with historic church environments, present the best value for money with long life-spans, and that a well-designed, ergonomic wooden chair can provide as much comfort as an upholstered design.

Upholstered seats are not considered to be appropriate for the following reasons:

- *They have a significant impact in terms of colour, texture and character which is not consonant with the quality of a highly listed church;*
- *Experience demonstrates that upholstered seating needs more regular refurbishment (wear and tear, staining) than seating without upholstery. This is especially true of multi-use churches where it will be normal to eat and drink regularly on the chairs;*
- *They are heavy and therefore more difficult to arrange and stack;*
- *The addition of soft furnishings can alter existing acoustics;*
- *Wood tones and textures fit well within church buildings and have been used for centuries in this context, whilst some colours have associations with other types of buildings such as offices.”*

22. I give significant weight to the CBC’s guidance. I therefore directed that the CBC be asked for its view on the proposed use of the Alpha chair in the circumstances of this particular case. I am grateful for the CBC’s response of 2 January 2019, in which it said *inter alia* that:

“The Council continues to support the principles set out in its seating guidance and advises the use of non-upholstered chairs, particularly in highly listed buildings. The Victorian Society quite correctly quotes from the guidance that a departure from it should be set out clearly, logically and convincingly.

The witness statement from the parish sets out the reasons of the parish for its choice of chair. The statement shows why the choice has been made by the parish and responds directly to the Council’s seating guidance.”

23. The CBC’s position is that, notwithstanding the points made in its guidance, it does not object to the proposed use of the Alpha chairs in this particular case. Given the significant weight I give to the CBC’s guidance, I also give significant weight to its views on how that guidance should be applied on the facts of this case.

24. My overall views are therefore as follows:

- (1) The Victorian Society's objections to the proposed use of the Alpha chair have real merit. I would generally be inclined to agree, based on the CBC's guidance and the discussion in a number of Consistory Court cases.
 - (2) However, the question of appropriateness tips in the petitioners' favour in this case. This is because of the CBC's input on the application of its guidance in this instance, the majority view of the DAC, and the third, fourth and in particular the sixth factor relied upon by the petitioners (see paragraph 16 above). I do not suggest that such chairs will always be appropriate for banded worship regardless of its architectural setting; I am, however, persuaded that the Alpha chair is appropriate for an approach to worship that has been (and is) integral to the flourishing of this particular church, which was otherwise vulnerable to closure.
25. I accordingly grant faculty in respect of the amended petition discussed above, including the use of the Alpha chair.
26. I need to address one further point. The Victorian Society asked me to consider making any grant of faculty conditional upon the church being open to the public on a daily basis during normal opening hours (letter of 4 May 2018, penultimate paragraph). I see no reason in principle why this should not be considered. I agree with the Victorian Society's point about the importance of churches – including this one – being open to the public as far as possible¹. If this church is only accessible to members of the public during service times, this would be a matter of concern.
27. As explained in their email of 8 May 2018, the petitioners say that "*forcing certain conditions on timings would be completely unworkable and they would not be able to accept a faculty based on this type of restriction*". Two reasons are given. The first is that public access would not be appropriate while the church is being used for certain types of events or meetings (such as safe havens or children's groups). This is not a persuasive objection. It would be straightforward for the church to commit to being open to the public during normal daily hours *except* when such events are taking place.

¹ See for example the discussion of the movement for open churches from the mid-19th century onwards – as it happens, around the time this particular church first opened its doors – in *Unlocking the Church: the lost secrets of Victorian sacred space*, by William Whyte (OUP, 2017, pages 103-106). As Professor Whyte explains, this movement was not anchored solely in architectural interest, but in the value of open churches to religious mission.

28. The petitioners' second ground of objection to the imposition of a condition concerning opening times is more forceful. I am told that the church has suffered a number of recent thefts, including of sound equipment. In light of that evidence, and given the location of this church, I have decided not to make my granting of faculty conditional upon any specific commitment to public opening hours. I also note the petitioners' indications that they wish to increase such access in future, and that that greater public access would be an aspect of its current application to the Heritage Lottery Fund.
29. While I have inclined against imposing the requested condition, I very much hope that the petitioners will take active steps to maximise – and publicise (for example on the church's website) – the times at which this important building and place of worship will generally be open to the public.
30. Costs in the petition, including a correspondence fee for the Registrar, are to be met by the petitioners.

ROBIN HOPKINS
Deputy Chancellor

9th January 2019