

**In the Diocese of York**

**In the Consistory Court**

**The Parish of Kingston upon Hull, St Nicholas**

**The Church of St Nicholas**

1. The Petitioners in this matter are the Curate, the Reverend Jenni Foreman, and Jill Wood, a churchwarden.
2. By an online petition dated 25<sup>th</sup> June 2018 they have sought a faculty to permit them to:
  - (i) Remove the existing twenty pews with one hundred and twenty Alpha SB2M chairs and four stacking trollies;
  - (ii) Mount a data projector to the front archway;
  - (iii) Attach an overhead retractable screen to the wall above the reredos;
  - (iv) Attach a lighting bar and stage lights to the front archway;
  - (v) Replace the existing sound desk housing with larger housing to accommodate additional equipment;

all as per the drawings Nos 2300/E1 dated May 2017 and 2300/P3/A dated May 2018 by Ingleby & Hobson Architects.

3. The matter was considered by the DAC at a meeting on the 17<sup>th</sup> October 2018 when the DAC recommended the works for approval by the court, subject to a proviso that “all electrical work must be carried out by an electrician holding the current appropriate professional accreditation (at present NICEIC, NAPIT or ECA all to Full Competence)”.
4. The matter was referred to me through the Online Faculty System. On 6<sup>th</sup> November 2018 I directed that I was satisfied that the petitioners had made out a case for their proposals and that subject to the relevant display of Public Notice and no objection being received a faculty should pass the seal.
5. Public Notice having been given of the proposals, Ms Wendy Wrigley and Ms Jean Davis sent a joint letter to the Diocesan Registrar dated 13<sup>th</sup> November 2018. In that letter they describe themselves as both being regular communicants who live within the parish and who are on the electoral roll. They expressed disappointment that there had been no consultation with the whole congregation about the proposals apart from the removal of the pews nor had any reasoning been forthcoming regarding the purpose of the changes. That pointed out that installation of the data projector, the retractable screen and the enlarged sound desk housing had already

been carried out and completed presenting them with a *fait accompli*. They said they both felt that the money could have been spent in a more useful way.

6. On the 20<sup>th</sup> November 2018, in compliance with Faculty Jurisdiction Rules (FJR) Rule 10.3 the Registrar wrote separate letters to each of them explaining the options facing them, namely whether to formally object by filing Form 5 documents, or to allow me to take their letter of objection into account when coming to my decision, without them becoming parties to contested proceedings.
7. Neither Ms Wrigley nor Ms Davis have replied to those letters. Under FJR 2015 Rule 10.3(2)(d) they are both therefore deemed not to have become parties opponent, and FJR 10.5(2) then requires me to take account of any letters of objection, and any comments on them received from the petitioner, in reaching a decision on the petition.
8. The Registrar had of course also written to the Petitioners to inform them of the 'objections' received. In due course they responded to the "objections" in a letter dated 29<sup>th</sup> December 2018.
9. In that letter the Petitioners say that there has been a significant consultation with the whole church family over a long period of time, not just concerning the pews but also looking "towards a more general transformation within the church". In November 2016 a survey specifically about the pews was carried out. Since then the PCC has made known reasons for the proposed changes within the wider church family during the main Sunday service, during the midweek service and by holding a well-publicised open day on Saturday, 9<sup>th</sup> December 2017, when the architect's plans were on display. In the course of that open day there was discussion over tea and coffee and people were invited to place anonymous comments and suggestions into a box for the PCC to consider and discuss.
10. In relation to the installation of the projector and screen in advance of the faculty, the petitioners say that this was not done until after they understood that the DAC were supportive of the plans and that it was triggered by an offer from a local business for the church to use transport and scaffolding equipment free of charge for the installation, but that that offer was only available within a very short timeframe. They point out that they have not used the equipment and will not do so unless and until the faculty is granted. They felt that being a church which falls within the most deprived 10% of parishes in the country, they could not refuse such a gift. They now apologise for having done so.
11. As for the sound system housing, they understood that replacing the old system was effectively a "like-for-like" replacement and so did not need faculty permission but they have included it in the faculty petition because of the increased size and following a discussion with the Archdeacon.
12. In all these circumstances the matter has now been referred back to me for a final decision on the matter in relation to the proposals.

14. In my judgement, the first thing I have to consider is whether a case has been made out for the proposals, unaffected by the fact that this is in part now effectively a petition for a confirmatory faculty. What is proposed is unremarkable. The church is unlisted. It was built in 1969-70 replacing the original 1915 church. It is described in Pevsner as being “an undistinguished building incorporating furnishings from the former church including reredos of 1931 and stained glass”. The pews have no significance. Their replacement with chairs would result in no loss or harm and would provide flexibility both for worship and other activities. The introduction of the audio visual equipment is now regarded as almost a necessity in a church. Even when extended the screen will not cover the reredos. It is therefore as unobtrusive as it could be. It appears to me from what is set out in the petitioners’ letter that over a long period of time there was extensive consultation within the church about all these proposals. The PCC has voted unanimously in favour of them. The DAC has recommended them. In all the circumstances and having regard to all the matters set out in the letter from Mss Wrigley and Davis, I am satisfied that the petitioners have made out the case for all of their proposals set out in paragraph 2 above.
15. What then is the impact on my consideration of this matter having regard to the fact that some of the works have already been carried out. Petitions for confirmatory faculties are presented to the court in various circumstances. On occasions the background is one where works have been done without any consideration for the necessary consultation with the DAC or the statutory processes. On occasions the works are done against advice that has been given in the belief that if the work has been done “they won’t go as far as asking us to reverse it”. Sometimes there has been consultation and what is done is done either through some measure of ignorance (although ignorance is no excuse) or through too light a regard to the need to obtain a timely faculty. Each case has to be considered on its own merits. Sometimes the faculty will be refused and an order made that the status ante quo is restored. On other occasions the faculty will be granted but orders made that the petitioners pay the lodging and other costs of the faculty process rather than as in many dioceses those costs being met by the Diocesan Board of Finance. That latter arrangement is in place in many dioceses to encourage compliance with the law, and that carrot also requires that at times a small stick be seen to be present.
16. In this case, I accept the petitioners’ explanation as to how it came about that they have done some of the work in advance of the faculty. They anticipated that the works would be approved and a faculty granted. Of course what they should have done in those circumstances was to ask for an interim faculty for those parts of the works involving the AV installation. Although the diocesan guidelines for interim faculties says that “An application for an Interim Faculty to proceed should usually be made only for emergency repair work”, it is now quite widely understood by the Archdeacons and by the Secretary to the DAC and the Registrar, that the Court is quite flexible in being willing to help meet other urgent circumstances which can include meeting financial deadlines.

17. I also accept the Petitioners' apology. And I also accept their assurance that the projector and screen have not been used and will not be used until a faculty has been granted. In all these circumstances it seems to me that there is no reason why a faculty should not be granted in the ordinary way although it will be expressed as confirmatory in relation to all the audio visual equipment. That work having been done there is no purpose served by adding a condition to reflect the DAC's proviso.
18. I therefore direct that a faculty will pass the seal until further order.
19. I will allow 4 months for the completion of the proposals.
20. This being an 'opposed' petition the petitioners will however have to pay the additional costs created by this being an opposed petition. I will however grant liberty to apply within 14 days for that order to be set aside.

Canon Peter Collier QC  
Chancellor

10<sup>th</sup> January 2019