

St MARY THE VIRGIN  
(Tewkesbury Abbey)

TEWKESBURY with WALTON CARDIFF

JUDGMENT

1. This matter comes before me on a joint request from the Parties that it be dealt by way of their written representations. Given the importance, not only in the Diocese of Gloucester, but also nationally, of this church, a Grade 1 listed building, better known as Tewkesbury Abbey, I would normally have conducted a Consistory Court there, open to all the Parties, their witnesses and anyone who wished to attend. However, as I know the Abbey very well and have refreshed my mind for the purposes of this judgement with photographs, I felt able to accede to the joint request for the matter to be conducted by way of written representations. It also was clear that all sides were conscious of the question of costs, were the matter to be dealt with at an open Court hearing. As both Parties have consented in writing to such a course (although not as I set out below) without some rather cavalier responses to the Faculty Rules, I will deal with the matter in this way. **However, to ensure that there is full information as to any decision I make in the course of this judgment, and of my reasons, I direct that a copy of this judgment be displayed on a public notice board in Tewkesbury Abbey for 28 days after receipt. An on-line version will also be available for anyone who wants it through the office of the Diocesan Registrar.**

As there is not going to be a public hearing, I have set out in fuller detail than usual the history of the Petition and its background for the benefit of the objectors, and all those interested, so that what has transpired before the matter came before me can be clearly and openly seen.

2. THE PROPOSED WORKS.

The South transept of Tewkesbury Abbey retains its original Norman apse, which, following the loss of the original Lady Chapel to the East of the Chancel, has been, though relatively recently, been designated as the "Lady Chapel". It has also been referred to as "the Norman Chapel" and the "Apse Chapel." It was not, as I have said, the original Lady Chapel of the Abbey: that was destroyed during the Reformation. This Apse Chapel, as I shall refer to it, the subject of this Faculty Petition, was originally dedicated to St John the Baptist, and was also known as the Norman Chapel, by reason of its architecture, was described in Pevsner as follows:-

*“The South transept still retains its small apsidal chapel, and this has a vault with radiating ribs, though a Dec window is inserted on the S. The arches rest on twin jamb shafts with scalloped capitals.”*

This Dec. window had been inserted at a later date into the Norman masonry. There is before me a photograph of the Apse Chapel in 1891, which is noticeably different from its present appearance. Only in 1939 was this Apse Chapel rededicated as the Lady Chapel (when the dedication to St John was moved to join St Catherine in another of the Abbey’s Chapel). In the late 19<sup>th</sup> century a Salviati mosaic was introduced c 1893 or 1897; the dates differ, which must itself have seemed at the time a somewhat bizarre and striking Italian addition from Venice to Victorian worshippers in a Gloucestershire church. Under current law and practice this mosaic (however fashionable it might have been to worshippers in the late 19<sup>th</sup> century) would be hard to justify either under need or suitability, but there it is, part of the accretions to the building. It must have been or about the time of the re-dedication as the Lady Chapel when various other alterations/additions were added to the Apse Chapel. A statue of the Madonna by Alex Miller was introduced in 1939, and a stone altar replaced a wooden one in 1945. In 1945 a stained glass design by Geoffrey Webb was also introduced. A chandelier was introduced, and also what have been described as “the Carolean chairs”. At present they are placed to the North West of the Altar. In the photographs I have before me, two large candle sticks are also in the Apse, and a candle prayer stand is placed at its entrance.

To those objectors who ask in their letters of objection “Why must they meddle”, it must, on reflection, be clear that many generations have tinkered with and added to this Chapel (indeed with the Abbey as a whole). The Apse Chapel has not remained frozen in time, untouched by changing liturgical fashions or a desire to, as succeeding generations of worshippers have seen it, “improve and enhance” the structure of the Abbey.

The largest of the Tewkesbury Abbey Chapels, it can seat about 50-80 people, though that number is not agreed by Mr Wardrobe. However, in one of his submissions he accepts that the other Chapels have a much smaller seating capacity. In his Statement of Need, prepared on **11<sup>th</sup> November 2009**, the Vicar set out the current position and their reasons for the Petition proposals. It is being used currently weekly for smaller services, including low masses, funerals, weddings, marriage blessing, dedications after civil marriages and as a Chapel of Repose for coffins. It is used for Compline during Lent and the Easter Garden; in other words, for services which might be lost in the great size of the main nave. I find that this is not just a Chapel for celebration of the Eucharist. Even now, it is used for various kinds of services, and has potential for more.

In **January 2007** an unopposed Faculty was granted to allow the Apse Chapel altar to be moved westward to enable additional space behind the altar to facilitate changing liturgical practices. It appears this actually took place in or about

**January 2009.** The result gave the PCC cause for thought as to what might now be done.

Following this move the suggestion was mooted that, given the new position of the altar, the use of this apsidal Chapel could be enhanced by the introduction of a President's Chair, space for a deacon and, at appropriate times for the college of priests to co-preside. In the documents before me there appears also to be the suggestion that these places could be used also by the congregation, allowing worshippers to be seated in the round. The designing architect's proposals were also to "de-clutter" (sic) the apse, and to introduce more minimalist liturgical furniture. For small celebrations of the Eucharist this would allow celebration in the round. "**Theologically this would emphasise the priesthood of all the believers and the gathering of family around the table**" was the reason given in the Petitioners' Statement of Need.

On **3<sup>rd</sup> March 2009** Mrs. Davis, a former Church Warden (so acting at the relevant time) deposes that the, now retired, Architect to the Abbey, presented plans to the Fabric Committee as to possible alterations to the Apse. As a result, quotations were sought. These quotations (which I accept were the earliest ones sought) were submitted to the Fabric committee on **5<sup>th</sup> March 2009** at some £9,520. At an early stage in his objection Mr. Wardrobe asserted that quotations were in place for those proposed Faculty works as early as September 2008. Not until his final submission dated **23<sup>rd</sup> June 2011** did he withdraw this, saying that he had "**no evidence**" that this was the case. The Petitioners were therefore put to the additional and unnecessary trouble of answering a bad point, which would have been of little assistance to the Court in any event.

On **24<sup>th</sup> June 2009** the matter first came to the Parochial Church Council (PCC) from the Fabric Committee. Mrs. Davis states that this was the usual practice in such matters. No decision was taken at that meeting save that it was agreed that PCC members should look at the Apse Chapel with the plans and consider the potential proposals.

Such an inspection took place on **18<sup>th</sup> July 2009**, and, following that inspection, it was proposed at another meeting on **22<sup>nd</sup> July 2009** that the matter should be formally referred to the next PCC meeting on **23<sup>rd</sup> September 2009**. At that meeting the proposal was carried unanimously by those present, save for one person who abstains, wishing to know more details of the anonymous funding for the project.

### 3. HISTORY OF THE PETITION

On **23<sup>rd</sup> September 2009**, following that vote, the Petitioners, formally being the Vicar and the two Churchwardens of St Mary the Virgin, Tewkesbury agreed to prepare to apply by way of Petition:-

***“To construct in limed oak and install seating around the semi-circle of the apse of the South transept Lady Chapel to terminate in a credence table at the Southern end”***

This seating was proposed to be attached by 25 x25 SST bars ragged at the ends to be built into the walls. I note that on the exhibited detailed section plans the dimensions of the fitting supports are very, very marginally different from the Petition dimension, but on the scale overall, the fittings size themselves are not a problem. It is, as I understand the objections, **the conception of the scheme itself, and its purpose, not the actual methods to be used.** However, as Chancellor I must, and do, consider the overall effect of any physical alteration/interference to the fabric, which here I find to be of a minimal character. This is no major re-ordering. What is proposed is reversible and can be taken out as and when, if and when, liturgical fashions change, at little cost and minimal damage to the structure.

As I have said, the Parochial Church Council (PCC) had considered this proposal, and the extract before me, signed by the Chairman and Secretary of the PCC, and dated **19<sup>th</sup> October 2009**, from the relevant **September 2009** meeting, set out what was proposed to be done (as I set out above) and goes on to say:-

***“It was noted that funding was available, though it was not possible at the meeting to identify the precise source of this.” The resolution was proposed by Margaret Wilson and seconded by Paul Fearnely. There was only one abstention (relating to the lack of information on the funding and not to the project itself), all other members were in favour”.***

The Petition was sent on **23<sup>rd</sup> October 2009 for consideration by the DAC.** This was to see whether the proposal had any support, or even at this initial level would encounter difficulties.

**In the Petition, the costs of the project were estimated at some £9,520.71. In the event, the costs of the work are being met in total by an anonymous donor, not by the Abbey itself (save for the faculty costs which at that stage were fairly nominal).**

There appears to have been, as one would expect, certain preliminary discussion with the Diocesan Advisory Committee (DAC). Mr Wardrobe complains that the DAC minutes refer to “an earlier proposal “which he has not seen”. I think this must be a reference to the actual Faculty petition itself. In any event, I too have seen not seen any other document, and it forms no part of my judgement.

The matter first came before the DAC for their **13th November 2009** meeting. The Vicar had prepared to accompany the Faculty, as he had to, a Statement of Need on **11<sup>th</sup> November 2009**. This was to go before the DAC. At that DAC meeting more details were required, and it was considered that the

statutory amenity bodies should be provided with full details of the proposals. This was done.

The usual enquiries were made to **English Heritage**, who confirmed in **January 2010** that they had no objections to the proposal and to the **Society for the Protection for Ancient Buildings (SPAB)**. Their concerns were covered by the architect's letter of **8<sup>th</sup> January 2010**, namely that all fixings would be into joints rather than stones, and that the stones in the apse is lias rubble, so that the precise sites of the fixings would be therefore unlikely to prove a problem. The statutory amenity societies were therefore satisfied with the proposals.

On **2<sup>nd</sup> March 2010** a representative of the **Church Building Council** (the Church of England's own body) confirmed that, following his site visit on **10<sup>th</sup> February 2010**, to the Abbey that **that body also supported the project**. This is of importance as the DAC were particularly concerned that this body should be consulted as this was considered "*to be a significant proposal from a liturgical point of view*" in a significant parish church. The objectors may take some comfort from the knowledge that, because of the national importance of Tewkesbury Abbey, the "outside world" has to be involved. The views/advice of those bodies also go to assisting and informing the Chancellor. Had any of these professional bodies, such as SPAB or English Heritage had unanswerable concerns over a Church such as Tewkesbury Abbey, the PCC might have considered that they would be facing an uphill struggle, but that was clearly not the case.

On **6<sup>th</sup> April 2010** a site meeting took place with a delegation from the DAC, which met Mr Finch, one of the Church Wardens and Mr Neil Birdsell the then (now retired) inspecting architect for the Abbey. Sensibly, as the DAC was there, a variety of matters were considered at that meeting as to other possible works, totally unconnected with this petition. However, the Lady Chapel seating was the major item for discussion.

I set out the DAC site notes of that proposal:-

*"Neil Birdsell explained the background to the scheme and his proposal. Existing features were noted, including the battered remains of a piscina in the SE corner, and the clutter of chair, credence table and chandelier. As part of the scheme, the furnishings would be found new homes in the Abbey, including probably the chandelier. The delegation agreed with Neil Birdsell's view that this, whilst a pleasant piece, tended to confuse the lines of the apsidal vault, moreover with the altar in its new position, there was a tendency to drop wax onto the altar linen.*

*The new seating would be minimalist in design and fitted away from the wall-almost "floating free". The finish would be limed oak. The lias stone of the walls seems to be largely C19.*

*Ideally the altar would have been moved slightly forward to allow this arrangement, but we concluded that there was just about sufficient clearance for people to move between the altar and the seated participants.*

*Members {of the DAC} generally felt that the scheme had been carefully worked out, and that the DAC should recommend the scheme”.*

By that they meant that, under the Faculty regulations, they would perform their role to advise the Chancellor as to the Faculty before them

Following that site visit, on **9<sup>th</sup> April 2010** the DAC met for a final decision on this application, and recommended the proposed works to the Chancellor. The DAC had no objections to the Petition, nor made any recommendations that I, as Chancellor, should impose any conditions, were the Faculty to be granted.

On **14<sup>th</sup> April 2010** the Petitioners formally proceeded, and the period of **public notice** began. This is analogous to Planning notices in the secular system. This expired on **18<sup>th</sup> May 2010**. Mrs. Davis states that, in accordance with the Faculty jurisdiction rules, it was placed on open inspection. **Mr Wardrobe complains that the Statement of Need was not so exhibited. Legally it does not have to be, and I accept the Church Warden’s statement that (as indeed, would have been the normal procedure) had any interested person wished to see this Statement of Need, it would, have been available for public inspection upon enquiry. No illegality occurred during this notice period.** In any event, there was ample opportunity thereafter for objectors to acquaint themselves with the details as, indeed, at least some of them did. The Public Notice was returned by the petitioners on **26<sup>th</sup> May 2010**. By this time three objections had been received.

I note now the objections which have been received almost a year after the proper time to object, and many months after a public meeting about the project. I have to ask myself why so long a delay? Did it not really matter to them until they decided to object?

In a typed but unsigned letter dated on **May 2010** an objector, whom I take to be Mr Wardrobe as it is with his other documents before me, wrote :-

- 1. The Chapel dedicated to Our Lady is for prayer and celebration of the Eucharist. It is not intended as a place for any other gathering, nor is it appropriate for con-celebration*
- 2. The intrusion of the proposed oak stalls adds nothing to the aesthetic appearance of the apse of the*

*sanctuary, sympathetically re-ordered by the Victorians*

- 3. This major proposal has not, so far as I can ascertain, been subject of a consultation with the congregation, and there exists ignorance of the project that appears to have been confined the PCC and its Fabric Committee*

*It is my earnest wish that this application to the Diocesan Advisory Committee be declined”.*

It is of note that there were but three objections received at this point, notwithstanding that the petition had been on display by way of **public notice for 28 days**. In 2010 there were 439 persons on the church electoral role.

On **23<sup>rd</sup> June 2010** there was a meeting of the PCC, when they had before them notification from the Diocesan Registrar of the objection from Mr Wardrobe and two others. They unanimously voted to proceed with the Petition, and they were supported in this by the anonymous donor who was funding the project. It was agreed that they would meet the three objectors to discuss their concerns. Sensibly, on **24<sup>th</sup> June 2010**, they (the PCC) wrote to Mr Wardrobe (who seems at this stage to be the leading formal objector) offering to meet with him, so that the inspecting architect, one of the Church Wardens and the Chairman of the Fabric Committee could discuss matters with him. A mutually convenient date was agreed for **6<sup>th</sup> July 2010**.

This meeting on **6<sup>th</sup> July 2010** appears to have been an informal one, and there are no minutes before me. Mr Wardrobe had, apparently met with one, possibly both, of the Church Wardens, but he subsequently objected that Dr David Cairns, the Chairman of the Fabric Committee, had, apparently left before Mr. Wardrobe's arrival. It was sensible of the Church Wardens to meet with Mr. Wardrobe at this stage. Only one of the other two objectors attended as well; he is referred to as a Mr. Regan. A Mrs. Regan later signed a letter of objection. I thought that this might have been a typing error or there may be two objectors, a Mr. and Mrs. Regan or two separate objectors. However, a Mr. Regan attended this open meeting, so there are two people. I apologise to each of them if they are unconnected, but I have noted their respective views. The third objector, a Miss Woolley, was invited to attend but, for what ever reason, did not do so. However, it would seem at that a Mrs Chorley, a member of the Flower Guild joined that meeting half way through. The members of the PCC present at this meeting had the impression that the questions she raised (about the Carolean chairs) was answered to her satisfaction. Mr. Wardrobe disagrees. Certainly nothing more was heard from the Flower Guild until March 2011, almost 11 months later. Mr Wardrobe was not

shown the inspecting architect's drawings, which one might have expected to have formed a rather important part of the discussion if it was to be meaningful. This was unfortunate, as full information at an early stage might have obviated any possible misunderstandings. However, in the event, as I set out below, drawings were displayed in the Abbey later in the year. Mr Wardrobe himself exhibits the architect's plans, so, at some point he clearly did see them.

**I really cannot urge enough that Petitioners for any proposed Faculty (as soon as their plans are firmed up and viable) provide full details with illustrative drawings (even as working drafts) at as early a stage as is sensibly possible for public display, so that any possible misunderstandings are not magnified by imaginative gossip as to even initial proposals.** Certainly, here, during the period of Notice anyone with any interest in the fabric could have asked for details, and then, if unsatisfied, and joined their voices to the three objectors who did. In any event the October meeting and display (see below) answered this point.

On 7<sup>th</sup> July 2010 a letter was received by the Church Wardens signed "Brian", whom I take to be the principal objector, Mr Brian Wardrobe. In the event, perhaps not surprisingly, Mr. Wardrobe, not having seen the drawings of the proposed scheme, did not withdraw his objection. In his letter he says:-

*"Should it be the decision of the PCC to proceed with this unnecessary intrusion, they must do so in the knowledge that there is a growing not insubstantial minority of the congregation who remain exceedingly unhappy about the project for a variety of reasons. I believe that members of the PCC and its Fabric Committee have been remiss in excluding the congregation from their consideration of this project. Its cavalier attitude is inexcusable, and as the news of the exchanges of views made yesterday percolates through the congregations {sic}, the resistance to the proposed addition to the Chapel of Our Lady will undoubtedly grow.*

*In conclusion, I am bound to admit that despite our long discussion yesterday, I remain without any convincing explanation as to why these stalls or seating are needed.*

He extends his blame for the proposal, and goes on to write:-

*The perception among very many folk will remain, that such inappropriate sanctuary seating emerges from a request or demand by the Diocesan Bishop to accommodate con-celebration of his clergy and further that the seating proposed is linked with the recent relocation of the altar that has seriously impaired the acoustic quality of the Chapel*

*It would be comforting for a considerable number of the congregation, that members of the PCC might re-consider their decision made at the meeting of 23<sup>rd</sup> June 2010 in the light of a number of contrary views that have been genuinely expressed.*

I note that at this stage, as I have said, it appears that only Mr. Wardrobe attended this meeting with only two other objectors. Certainly the other objectors, who subsequently write or sign up to object, do not mention that they had or had not taken up the opportunity of attending that meeting, or the later one held in the Autumn. It is to be regretted that objectors did not then rally to express whatever their objections were to the PCC/Fabric Fund members. I also note that since this Petition was issued there must have been one, if not two, annual meetings to elect the PCC, so that any groundswell of opinion could have been publically and properly tested by the objectors standing for election to the PCC on an “Anti-Apse Alteration” ticket. Of course, such objectors, if elected would then have had to face the running, fund finding and care of a really major sized Church. I have no information that that course of action took place save that Mrs Davis that at the Annual Church Council meeting held on **28<sup>th</sup> April 2011** the Vicar specifically raised the Apse Chapel project in the context of the Fabric report, and asked if there were any questions or comments about it. . One person asked where the idea for the seating had originated from. The Petitioners depose that no other questions were asked nor objections raised. Given the dates on the letters from objectors, all predate that PCC meeting. Again I have to ask myself why adult people in their own parish church did not take the proper and democratic annual forum afforded to them to raise their concerns openly and fairly, where all present, petitioners and objectors, would have had the opportunity to of a full and frank discussion of what the perceived or feared problems were. The opportunity to challenge the Fabric Committee resulted in rather a “damp squib” of a question. Really, the term “any other business” means what it says. I am at a loss to understand why the objectors did not use their rightful, democratic opportunity at this point to raise their objections in terms to what they saw was a current problem. All the current objectors had had their legal opportunity in April /May 2010, during the period of public notice, and now again a year later. I must ask myself why such reticence at this annual meeting. This meeting was no Court of Law; there was no risk of costs. They were, one might hope, all among friends. However, I jump ahead in time.

To return to **October 2010**, there was a public display at the west end of the Abbey of the proposed works, including plans together with a supporting document of explanation by Vicar as to the reasons for the proposal. A computer generated image of the proposal for the Apse seating was displayed at the West end of the Abbey and at the entrance to

the Apse Chapel. No further objections were received at that time by the PCC. There was an open public meeting on **30<sup>th</sup> October 2010 (advertised on 24<sup>th</sup> October 2010 in the Abbey bulletin and verbally during the Notices given out at two morning services)** about the proposals. The attendance at that meeting was small, some 10-12 in all, including the Petitioners (the figures given to me vary somewhat) people of whom three were described by Mr Wardrobe to have been objectors. The Church Warden says that three objectors turned up. Again I might ask why so few? In any event, one of them, Mr. Regan, announced at that meeting that he was satisfied, and no longer wished to be an objector. This was the view of the Petitioners but it is disputed by Mr Wardrobe, who says that Mr. Regan still is an objector. No new objectors surfaced after that meeting. The plans were again displayed in the Lady Chapel itself for some weeks after this meeting. It is not clear to me from the letters before me whether any of the objectors, other than Mr. Regan who may or may not have withdrawn his objection, who attended that meeting are on the list of signed up objectors; a list which came into being many months later.

Mrs. Davis state that, following that meeting, the Fabric Committee resolved to bring the proposal back to the PCC on **9<sup>th</sup> November 2010**. Thought was given as to the costs of pursuing the Faculty, given that there were still objections from Mr. Wardrobe and, it would seem, one other. By **7<sup>th</sup> January 2011**, the PCC's resolve to go ahead was confirmed. Discussions between the Archdeacon of Cheltenham and Mr Wardrobe did not lead to any resolution of the situation.

#### 4. THE OBJECTIONS

Whether by reason of the snow, discussions with the Archdeacon and /or the demands of the liturgical year, the Parties then all seem to have paused for consideration, and to take stock of their respective positions.

On **11<sup>th</sup> February 2011** Mr. Wardrobe prepared his initial objections for my attention. These can be summarised as follows:-

1. That the petitioners have failed to demonstrate that their proposals are reasonable or necessary or have any compelling reason for change to one of the significant Chapels of the Abbey.
2. The Chapel is dedicated to Our Lady. It must, therefore, have a significant impact on the spirituality of the Abbey and those who seek to find time and space with our Lady for devotion and prayer.

3. The aesthetic simplicity of the sanctuary gives impact to the beauty and spirituality of the Lady Chapel, sympathetically reconstructed by the Victorians in the 19<sup>th</sup> century. The intrusion by erecting **several cantilevered seats** to the entire length of the stone wall of the Apse would seriously impair its simplicity and beauty, exaggerating as it would the unfortunate, unnecessary and unwise recent relocation of the Chapel's stone altar.
4. He stresses that the Chapel is the focus for the Easter Garden and Easter Vigil, the Purification and the Annunciation, as it is on other occasions when Mary is central to the devotion *"I submit that the seating adds nothing to the purpose of the Chapel, indeed, it would suggest an entirely different purpose"*.
5. He objects to what he considers to be the relevantly few occasions number of con-celebrations which might be held there, and raises the possibility of other places in the Abbey where those could be held.
6. He considers that no compelling reason has been made out for the change, nor to *"elicit the likely pastoral consequences of making the changes"*. He queries the number of potential con-celebrations, and as to whether these might take.

Pausing here, I find Mr. Wardrobe's use of "**several cantilevered seats**" could be somewhat misleading to anyone who did not have sight of the plans. Also, in this document he does not deal with the other various services for which the Ape chapel is used. The real point of difference between at least Mr. Wardrobe and the Petitioners appears to me to be how each see the use of the Apse Chapel; Mr. Wardrobe stresses what he sees as the historic and liturgical position of the Blessed Virgin Mary; the Petitioners the wider use of the Apse Chapel for other forms of liturgy which other people might find as spiritually important, and as necessary to their own respective devotions, and liturgically as important to them as Mr. Wardrobe's are to him. Although hinted at and not openly argued, Mr Wardrobe's objections (as well as aesthetical) seem to stem as much from his view that any interference with the current lay- out of the Apse Chapel will potentially give rise to a different form of liturgical worship inimical to a liturgical style of devotion to the Blessed Virgin Mary. His fears about this are semi-stated, but he does not seek to put his case squarely on the ground that in some way the new seating proposals would be introducing an illegal form of worship. Understandably, as he would have found this a difficult argument to sustain. Equally, I am not being asked by the

Petitioners to re-consider old battles with 19<sup>th</sup> century Tractarians as to the legality or otherwise of his own apparent views within the framework of the laws and canons on the Church of England. A Northward position? An Eastward position? A Westward position? Had either Party wished to specifically argue any point of ritual or doctrine, this would have been dealt with as a reserved matter within the meaning of Part II of the *Ecclesiastical Jurisdiction Measure* 1963. No-one has sought to make such an application to me. Indeed, the very variety of forms of worship now being used and developed within the Church of England, to appeal to as wide a worshipping congregation at different times and with as many different emphases as possible, can be disturbing and unsettling to some parishioners, however seen as part of an widening inclusive ministry by the Church of England itself. Without wishing to sound trite, an analogy with the BBC radio might show that some people prefer to listen to Radio 1, while others listen to Radio 3. It is still the BBC.

On 3<sup>rd</sup> March 2011 a Mrs. Green wrote to object on behalf of some 14 members of the Tewkesbury Abbey Flower Guild. On their behalf Mrs. Green says **“we are sorry that we did not object earlier..... We all feel that it is not right to change the Chapel permanently. We understand that the seating is sympathetic to the Chapel-but knowing that would not have changed our views. We never understand why temporary seating cannot be put in when needed, or if needed for a particular service, it could be held elsewhere where seating would not be a problem.”** She stresses that for many of the Flower Guild members, the Apse Chapel is **“extremely important spiritually”**. That letter was sent to the Church Wardens, together with a statement unanimously approved by 14 active members of the Flower Guild. I have, of course, considered that statement with care. They are concerned that seating in the apse would detract from their flower arrangements, especially in preparing the Garden of repose for the Easter Vigil. They stress the importance to them **“..of the spirituality of the plains unadulterated stone of the apse, the beautiful mosaic (Christ in Glory) the candelabra and the statue of Our Lady,**

As I have stated above the last three items were all in themselves much more recent introductions to the Apse Chapel, but now appear to have taken on the patina of age in the eyes of current worshippers. Some of these at the time of their introduction might have well have been seen by then congregations as unusual, even liturgically questionable items, but now they have become well loved, and an example of aesthetic church furnishings of its period.

**The Flower Guild do not explain to me just why the low, rather minimalist design for the apse seating would cause any real difficulty in preparing flower arrangements, or, indeed, more importantly, to their individual private devotions. Having seen their flower arrangement efforts at other times of the year, I really do take judicial notice that the Flower Guild ladies will be well up to any challenge of design which currently they themselves might perceive this Petition to produce.**

However, to continue the history of this matter, in the Parish's weekly Bulletin for the first Sunday in Lent, **13<sup>th</sup> March 2011**, it was announced that the Vicar, Church Wardens and the PCC had made the decision to proceed with the Petition.

Following that flyer of **13<sup>th</sup> March 2011**, signed by the Church Wardens and Mr Cairns, the Chairman of the Fabric Committee, headed "Fabric Matters" in which they summarised the history thus far of the Petition for the apse seating (as well as other items of note such as work on the Abbey clock, the North Porch etc). This was, apparently, one in a series of such information pamphlets for the congregation, but this one dealt specifically with the Apse proposal. This flyer made it plain that the PCC wished to continue with the petition "**but that one of the objectors decided to pursue the objection formally through the legal process**". The potential costs of this course were, obviously, of concern to the PCC. **It appeared to them that because of the objections which had been raised by the objectors, the matter now was potentially moving into what would be a more expensive stage than that of the numerous other uncontested Faculty petitions which Tewkesbury Abbey PCC had made over recent years."**

Mrs. Davis stresses that in that flyer, it stated as I read, "**Please speak to either Church Warden if you would like to discuss it further**". She states that she had had at that time, no knowledge of the identity of the current list of objectors subsequently produced by Mr Wardrobe so she could not then speak to them to discuss what their individual concerns were. It is to be regretted that the current objectors (with the admirable exception of Mr. Regan and Mrs. Chorley who went to the meeting on **30<sup>th</sup> October 2010** to discuss the proposals and to judge for themselves) did not choose to discuss their views at this point with the Church Wardens.

Of course, it is open to any Chancellor of the Ecclesiastical Courts of the Church of England, as in any Court of the land to consider where, ultimately, costs should fall if a Party has acted unreasonably, and that is always a risk for any formal objector (though this risk is often sought to be avoided by "informal" objectors or the anonymous objector, all of whom seek to avoid any risk of costs of a public hearing, which would be remote in any event, were their objections were reasonable and a fair arguable point).

It might always be advisable for any organising objector to obtain agreements as to the risk of cost sharing, should that ever become a real risk, from others less forthcoming who encourage him. So often, the reality of litigation expense does make people consider just how strong and how valid their objections really are.

**I should stress, as a general comment, that making an order for costs against a Party in this type of litigation is relatively unusual, as objectors should be heard and given full opportunity to express their views. However, Petitioners who are successful have the right to seek costs which otherwise they would not have to pay against unsuccessful objectors. I say the Petitioners, but, of course in reality, it is the from the silent paying congregation whose collections pay the**

increased costs of a contested hearing to deal with the views of, perhaps, a small minority. People who object might just wish to pause to consider the matter of costs. Is it fair that only the Petitioners pay, especially if they are successful? Should the informal or anonymous objectors assume that, even by informally encouraging firm minded formal objectors, they can thus have their say without any financial consequences to themselves? Is it right that the Petitioners are left to carry the can of increased costs engendered by objections? That ought to be considered by objectors. However, to formal objectors, the risk is there; any formal objection has to met with proper preparation to answer it, and the Petitioners have no choice but to proceed with their petition and prepare their case for the Chancellor's decision, or to be bullied into the withdrawal of their Petition by, possibly, a lone voice.

In the event, from the contents of this flyer that I take it that there were then three objectors. In the event two of these objectors appear to have formally withdrawn or at least declined to become formal objectors.

Readers of this flyer were urged to contact the Church wardens /Chairman of the Fabric Committee if they wanted any further information about any of its contents

Mr. Wardrobe prepared a further statement of his own position, dated **March 2011**, which appears (but I was not initially clear if this was sent to all or just a few). One of the objectors, Mr. Robin Otter, wrote as an objector, suggesting that "*If you have 24 objectors.I suggest a petition should be placed in the Abbey prominently near the North entrance*". I do not know if this was done. Mr. Wardrobe says that he had written to the 24 people who had complained to him, but that he only disclosed their names much later.

In this statement Mr. Wardrobe says:-

*"I write to you since over these past few weeks and months, some 24 concerned people have spoken to me about their misgivings in regard to the proposal and I include yourself. If you remain against the Petitioners' proposal to introduce the seating, I shall be grateful if you indicate this to me by letter, telephone or simply by word when you next see me. I can assure you that your name will not be mentioned at the Court hearing, but I shall declare that a certain number of the congregation (it will need to be accurate) have expressed their disquiet and support the objections."*

In it he notes that there will be letters from two informal objectors for the attention of the Court (as it was then anticipated by all Parties at this stage that there would be a formal open Court hearing), and that 15 members of the Flower Guild had submitted their own objections, which I have referred to above, and "*that ladies of the Mothers Union have had their leader speak to me and associate themselves with Objections*"

I should say that Mrs. Davis and Mr. Wardrobe both refer to a letter of objection from a Mrs. Beecher on behalf of the Mothers' Union. I have searched the papers before me, and **neither side** exhibit such a letter. However, I will deem it to have been received as an objection. I assume that the objections it raises are covered in general terms by other objectors. Unless it raised any new material not covered by any party, I will deal with it in that way. As it is not specifically replied to by the Petitioners, I act on the assumption that such a letter raises no new matters for my consideration, but is of a mind with the other objectors. If there is some **novel objection not covered in the papers before me**, and in the views of the other objectors I will admit it late, but not otherwise, and my attention can be drawn to it.

Mr. Wardrobe goes on in respect of the costs: *"I am appalled that the PCC is prepared, as the notice claims, to spend up to £5,000 to have the right to build this intrusion in the lovely and highly regarded Lady Chapel when its finances are already declared to be in serious deficit. Finally I do not want my actions to be seen as a fight with the Vicar. I am solely concerned to protect this glorious part of the Abbey from the proposed unnecessary intrusion."*

In a free country as England, Mr. Wardrobe has an absolute right to galvanise or organise a body of objectors to the PCC's proposal; this being a long and respected British approach (though it would have more logically have been done during the formal period of notice almost a year before). He says that he did not "engage in lobbying", and that had he done so, the list of objectors would have been longer. I note this. However, that it is very easy for people to say anything to the enthusiast for a quiet life, and not to offend, especially if they are promised that they can remain anonymous and sign nothing. I note the number of people who actually did sign as objectors, whether encouraged to do so or not. I note also the large majority who did not. To say that they can remain anonymous causes me some concern as to the strength of their own objections and, indeed, as to just to what each individual objector is objecting, and the Court is left to rely on accurate reporting by the principal objector himself: a fact here which, very properly Mr Wardrobe was aware of. All I do note is that when people could write in during the public notice period, only three people did. I have to ask myself why so few? Three. There being as I say some 439 on the Electoral role, now a little larger. Some 320 as an average attend the Sunday Services.

On **31<sup>st</sup> March 2011** a Directions hearing was held by the Diocesan Registrar, when directions were issued as to the filing of statements by each side. The Parties jointly agreed that the matter should be conducted by way of written representations.

Mr. Wardrobe filed his formal statement of objections on **20<sup>th</sup> April 2011**, with his original letters and documents in support, which I have referred to above. He also included a list of objectors. There is now exhibited before me a typed and undated list of names and addresses of some 32 people, this list being headed “persons who have given their names in support of Objections to the petition for Faculty”, notwithstanding that Mr. Wardrobe had written to objectors to say that their “names” will not be mentioned at the Court hearing”,

- The list of names does not state whether the signatories are Parishioners and/or on the Electoral role and/or residents in the Parish. Only two objectors formally describe themselves, very properly, as being on the Electoral role of the Abbey, and they are from Malvern. Some objectors may, however, not be on the electoral role but be residents on the parish.
- Are the others tourists? Regular worshippers at the Abbey? I do not know.
- Other signatories come from as far from the parish as Cutsdean , Gloucester and as far away as Buckingham
- This list does not make it clear just to what each objector objects. Cost? Design? Need? Just change?
- I must assume that they have signed up in agreement with the letter of Mr. Wardrobe referred to above.
- Was this letter exhibited in a public place? If so, where and for how long? Mr. Wardrobe says not. Was it sent to friends and supporters of Mr Wardrobe? Did it include the members of the Flower Guild or Mothers Union already referred to by Mr. Wardrobe? These were my initial questions, partially answered in his later submissions by Mr. Wardrobe.
- He himself stress the importance of an accurate list of objectors, but in this he has not achieved the standards of clarity and accuracy which he himself realised would be of use and assistance to the Court. Whether all the signatories had legal locus to object is also not clear.
- I accept, of course, that with a Church such as Tewkesbury Abbey many of the congregation by choice travel substantial distances from their own parish church to worship there, be it for the liturgy, the exceptional music or the cathedral –like ambience. It draws a wider congregation than the average parish church, together with many passing tourists.

It should be said that some 15 of these 32 objectors have written and, very properly, signed individual letters. (Possibly 16, if Mrs. Beecher’s missing letter is counted or more

together with her group, if they all signed). I have considered with care their respective individual objections, which range from aesthetics, financial and ambience. Some just said that they objected, without amplifying why. The former Church Warden notes that of these, only 10 of the signed letters are on the Electoral role of, as I say nearly 450. To the signed list of 32 objectors (and there is some overlap with those who signed individual letters) it is not clear how many are actually on the Electoral role. Some addresses are clearly within the residential parish, Some as I say live at a distance, Northleach or Buckingham. Many of the objections are of a very general nature, as to the dislike of any change, but some are detailed and thoughtful. I have, of course, considered them in detail. It would have been more helpful if individual objectors had indicated that they had seen the actual plans and/or the computer generated design, or attended meetings, so that they could show to me that they were clear as to what, particularly, was of concern to each of them.

However, I must bear in mind the advice I have received, referred to above from the Church Building Council and other specialist bodies, such as English Heritage and SPAB, who raised no objections. I also bear in mind that decisions are not decided on a head count (otherwise Mr. Wardrobe and the declared objectors would have overwhelmingly lost). One objector with a strong point might be enough. It is, in each case the Chancellor who has the duty under statute to exercise his/her discretion. I also bear in mind view expressed in **Re Christ Church Chislehurst [1973]1WLR1317 @ 1321**, namely that numerous signatures on a petition are of little evidential value without proof of the representations which preceded the application of each signature. In other words, for a petition of signatures to be of any evidential use as to gage, for example, the strength of feeling a project has generated, a Chancellor must know what objectors have been told before they each sign. It would also be helpful if a Chancellor could be assured that the signatories had seen any relevant plans/drawings and whether the signatories had attended any public meetings in respect of the project, or discussed their concerns with the relevant petitioners. A Petition should have a clear declaration at its head, setting out just up to what people are signing. Amorphous objections are of little use or assistance.

I do specifically deal with some signed individual objections which cover additional matters, which I consider require to be dealt with in this Judgement.

*“Should one question what benefit any change would be to an ordinary member of the congregation –and isn’t the abbey there too meet their needs prior to the personal desires of the incumbent?” Anne Cadbury*

I have set out the history of this particular project through the committee structure of the PCC and Fabric Committee, and I do not find any evidence to support that this Petition is the result of some vanity proposal by the Incumbent. I specifically reject this objection.

A Mrs. Chorley writes in accord with the general objections set out above, but raises a sensible and helpful note of concern as to the apparent intended removal of Carolean chairs, and provides a helpful note as to their history, use and provenance. She had, indeed, attended the October 2010 meeting (whether or not at Mr. Wardrobe’s invitation is disputed but it matters not how: she was there), and she had raised the issue of these

chairs then. She was also a member of the Flower Guild, (but it would seem that no point as to the difficulties of flower arrangements was raised at that meeting). I find that she makes an important point as to the chairs. It is unfortunate that in the documents supporting this Petition these are referred to as “clutter”. This is rude to past donors, and is, understandably, seen as patronising to ordinary worshippers. **I do make it a condition of this Faculty that if these chairs are to be moved from the Apse Chapel itself, they should be placed properly elsewhere in the Abbey.**

The Church Wardens thought she was satisfied at that meeting, but apparently not. However, her written letter of objection mostly (and helpfully) concerns the potential removal of chairs.

In his further statement of objections of **14<sup>th</sup> May 2011**, made pursuant to the Directions order already referred to, Mr. Wardrobe again set out many of his original objections which I have referred to above. He amplifies these, and adds other ones. For the sake of clarity I comment on the Petitioners’ replies to these points and to my findings (some of which I have referred to above). :-

- 1) He now accepts that the Petitioners should have consulted with other bodies in respect of the proposed alteration. However, he complains that that any such” important change” should first have been brought to the notice of parishioners to gauge the level of support or disapproval

**I find that here he makes insufficient allowance for the opportunity for objections to be made at an early stage. The advertisement of the proposals, the time for objections to be formally made, as I have set out above, all gives this opportunity to potential objectors, as here. Indeed, here I have allowed him to adduce very late objections (see below). Many potential Petitions do not get off the ground because discussion with the DAC , local planners or the amenity societies show to prospective petitioners that there would be too many professional objections. Their plans just would not get off the ground. In this case no such objections came from those sources. Such consultation would, in any event, have been ordered by me had, the DAC not set in train the clearly necessary steps to obtain the views of SPAB etc. At these embryonic stages of a proposal any committee, a PCC included, will often have discussions as to proposals, which they may accept or reject at an early stage. That is what they are elected to do**

- 2) Mr. Wardrobe states that this project had been “a topic of discussion and planning, restricted to the Petitioners , the PCC and its Fabric Committee for a considerable period of time preceding November 2009

**As I have said above, he abandons this argument very recently. However, even were that to have been the case, I would not have been not at all surprised. These kinds of**

projects may have a long gestation, and are not just proposed on the back of an envelope. Committees exist to make future plans, have discussions and have regard to the financial position, present and future. Every year they can be questioned at their annual election, other keen people voted on, or others voted off. A PCC is not a self-perpetuating Governing body. Nor is a PCC (like any annually elected committee, be it of a golf club or an allotment society) to be expected to conduct its business with weekly public meeting in permanent session like some committee of the French Revolution.

In any event, I accept (as now late in the day does Mr. Wardrobe) the evidence of the Petitioners that this project was not in their minds in 2007 when the altar was moved forward by Faculty, but emerged after that had been done and the results fully experienced. They accept that had the Altar not been moved forward, this current Petition would not have been viable. I reject the submission of the Mr. Wardrobe that the two Faculties were specifically connected from an early stage.

3). He also states that the cost of the 2007 altar move, having been defrayed by the Friends of Tewkesbury Abbey, *“As a Council member of that body, it is my judgment that, had the members been aware of plans to have seating attached to the wall of the apse, achieving the costs for relocation of the altar would have been difficult if not impossible”*.

That Faculty was un-appealed and was granted some 4 years ago, and the repositioning took place. I find Mr. Wardrobe’s argument here somewhat extended. I note what he says as being **“in his judgement as a Council Member of the Friends of Tewkesbury Abbey”**. This Court has not been assisted by any statement from the Chairman of the Friends supporting Mr Wardrobe’s contention, nor supporting his views.

**He provides not one shred of evidence in support of this contention, and there is before me no formal objection of any sort for the Council of the Friends of Tewkesbury Abbey to support Mr. Wardrobe of this point.** I do not know if any of the objecting signatories belong to the Friends; it would not surprise me if some did. However, there is not before me any formal minute from that body expressing any views at all on this project.

**Interestingly, one of the objectors, Canon Youens makes the following point in his letter of objection to the Court:-**

*“I must admit that I was not in favour of moving the altar in the first place; however, having become accustomed to the change, I think the effect is good, giving a lovely open space behind the altar and the perspective has been enhanced”*

4). Mr Wardrobe goes on to state that “it came to his knowledge” in September 2008 that there had been discussions about quotations for carpentry work, subsequently he says withdrawn He goes on to say “ *I can only surmise the cause being one of cost*”.

Sadly it seems, as I have said, that Mr Wardrobe’s anonymous informant had misled him: one of the difficulties of relying on such sources.

**Even if he were right (and this is disputed by the Petitioners) it does not assist me in respect of the Petition before me. I would not have been at all surprised if an idea was discussed, and not proceeded with because of cost. If that were the case as suggested by Mr. Wardrobe, I would have found that the PCC would have been acting in a sensible manner. If Mr Wardrobe had been right, then all that happened in 2008 was that the PCC had an idea; it was looked at; it could not be funded. End of idea. However, it would seem that even the PCC, let alone DAC, were not then troubled by any such embryonic idea at that time, which Mr. Wardrobe has been forced to concede. Happily now for the Petitioners, a generous and anonymous donor (who is still on board notwithstanding the long gestation of this project) has proposed to fund their current Petition. Maybe this current petition re-activated an earlier idea. I do not know, nor does it matter even if it were to be the case. The Petitioners deny that there were any such proposals, and I accept their evidence on this, as now does Mr. Wardrobe. I am concerned that such misinformation might, however inadvertently, been fed to potential objectors and “muddied the waters” by suggesting some long hatched plot.**

**In considering this Faculty, I am concerned only with the relevant one from 2009 onwards. I find nothing sinister or untoward about the actions of the PCC in Mr. Wardrobe’s earlier statement (now withdrawn by him) that he had “knowledge” which he says came to him “in confidence” about discussions in 2008. Discussions of future possible developments are (or should be) a normal part of any PCC meeting. If he was initially trying to suggest that the PCC were acting in an underhand way or trying to get the work done by two Faculties, I would have rejected this suggestion, were it to have been made.**

**Mr. Wardrobe goes on to object to what he thinks are going to be the placing of “Chairs “ behind the Altar, which is not an accurate description of the work petitioned for.**

5.) As another objection *Mr. Wardrobe challenges factual matters in the Statement of Need He says that the Chapel can only hold 44 seats. He gives the attendance figures for Compline and the Eucharist during Holy Week from 2008-2011, all in the teens.*

*He states that "the petitioners are reported to be claiming a need for the Apse for healing services".*

He does not give figures for funerals or weddings or blessings. Again any need for healing services is not on the documents before me. The Petitioners dispute the numbers. It is clear that unless one uses the nave itself, the Apse chapel is the biggest Chapel. Some services have very small congregations, some are packed. Numbers one way or another really do not assist me; the proposed introduction is not for chairs to fill the whole Apse Chapel space. I need to consider are there services held there which, given changing liturgical fashions, have a need for the proposed alterations? Do these alterations provide the enhanced facilities for the performance of services in that Chapel? The Petitioners and the principal objector appear to have differing views as to the medium of the performance of the liturgy. Are such changes necessary, which may be the root cause of this present situation. The petitioners would wish to be able to celebrate communion in the round (as as available earlier in the Abbey's renovated Upper room, unfortunately not, architecturally, DDA compliant). Mr Wardrobe favours an Eastward position for the celebrant. For the purpose of this hearing, I have been presented by Canon Williams with a detailed discourse on the development of liturgical use. He takes me on a tour d'horizon from the early Church in Syria via St Augustine to Dom Gregory Dix. Canon Williams stresses the intimacy of the congregation gathered round the altar, already experimentally tried in this Chapel. From the objections before me it is not clear if any of the objectors had actually attended any of these trial services, which he submits are necessary to enhance and increase the current usage of the Lady Chapel. He wishes to utilise the proposed new arrangement to developing healing services for the sick. He stresses that small congregations are beginning to outgrow the other smaller chapels at these services. Mr. Wardrobe counters with the views from Constantine to Vatican 2, and raises some doubts as to the qualifications of the DAC's liturgy adviser, of whom he says: "I am advised that Mrs Smith is an ordained lady with knowledge of the Abbey, this I am unable to verify, and I am unaware of her liturgical experience.". He himself has produced no supporting expert evidence for his proposition that "Con-celebration is, after all an exclusive clergy ritual and cannot claim to spiritually uplift or deepen the devotions of the lay communicants". I fear that Mr. Wardrobe faces others whose views and Anglican worship and liturgical fashions are just different. The days of burning dissenters from which ever wing of the church are, at least in this country, behind us.

The form of service in use in Tewkesbury Abbey is a matter decided under the canons of the Church of England, and for the Vicar and PCC to agree. About this they are in agreement, and the DAC are content.

All who worship or visit Tewkesbury Abbey cannot but be too painfully aware looking at the rebuilt outline of the proper Lady Chapel, destroyed during the Reformation, that generations of worshippers have argued to the point of violent disputes, walk-outs or splits, about liturgy or about changes to their own views as to

the form of a service. Fashions change affecting the individual consciences of worshippers, but Tewkesbury Abbey, this heroic building, has had to take all that generations of congregations have thrown at it from motives which every generation would doubtless have said were for the best of intentions.

If Mr. Wardrobe has not convinced me, as he has not, that what is being proposed would result in a form of illegal service, then his arguments become more restricted. The proposals may not be to his individual liking, (others may disagree with him) but that is a long way from persuading me that they are legally wrong. He has called no expert in liturgy to provide this Court with any firm evidence to the contrary. In the absence of any supporting evidence, it is a matter for him if he wishes to persuade a higher ecclesiastical Court otherwise.

Tewkesbury Abbey is subject to the jurisdiction of the Church of England. I must apply what is the position under such ecclesiastical law as currently governs the Church of England. Are the Petitioners' proposals lawful? Are they necessary? Would they cause irrevocable damage to the fabric? Are the proposals reversible?

6 ). As set out above, Mr. Wardrobe stresses the availability elsewhere in the Abbey for con-celebration for the college of priests. This is undoubtedly the case, but the petitioners also stress the importance of a form of Communion which gives the appearance of greater inclusivity between the congregation and the Priest.

Mr Wardrobe goes on to say that *“the changes ...will give an entirely different appearance to the Chapel of Our Lady and suggest a purpose other than that for which Her Chapel is dedicated.”*

This view at best can only have been held since 1939 given the present dedication of the Apse Chapel, and might cause some puzzlement among many regular C of E worshippers. I totally understand the importance to Mr. Wardrobe of his personal devotions to the Blessed Virgin Mary and to what he perceives to be the additional spirituality of this Chapel's specific (albeit relatively recent) dedication to Her, but it is a Chapel which must be used for the wider needs of the whole worshipping community at Tewkesbury and in accordance with the Canons of the Church of England.

I find that in his enthusiasm to oppose any, as he perceives it, change in usage of the Chapel from a state which he considers appropriate, has allowed him to overstate his objections to the introduction of changes of a minimalist nature.

The difficulty is that he sees the function of the Chapel to be worship conducted by the priest before a devout congregation, where as the Petitioners wish to provide a more inclusive involvement of the people in worship. He is opposed to any physical alteration which might put his view as to how, and for what purpose, worship is

conducted in that Chapel at risk. I struggle to agree with him that what is being proposed would interfere with the continued conduct of a more Tractarian service as well as other forms of liturgy. I can see that the very idea of providing for the congregation to gather together round a presiding Priest could present a potentially different perception of the service. Mr. Wardrobe just does not like the idea of new fittings, even though any particular service might not be conducted in a new way. The very sight of these fittings would offend him as they speak to him of a form of worship which he himself finds, it would seem from the tenor of his submissions, offensive, if not heretical. Unfortunately, his views as to the importance of the Blessed Virgin Mary as a point of liturgical importance might seem to other members of the Church of England equally offensive or irrelevant. Since the alternatives to the Book of Common Prayer, the Church of England does not seek a “one size fits all” form of worship. The days of enforcing conformity have gone; something Mr. Wardrobe on one wing of the Church benefits from as do some on the evangelical wing. Within Tewkesbury Abbey many generations of worshippers have worshipped in different ways, a service of 1350 would not be that of 1650 or 1850 or even 1950.

I bear in mind the finding of Chancellor Bursell that items which assist private devotions may be admitted as long as they do not detract from the devotions of others nor from the ministrations within the Church itself. Here I must be mindful of the wider ministry of the Abbey, and not just the private devotion of some of the worshippers. In any event I struggle to see how what is being proposed here would interfere with even these private devotions.

Within the Church of England worshippers are now enabled to find the form of liturgy with which they feel most comfortable, be it at Walsingham or at Holy Trinity Brompton.

#### THE PETITIONERS

The PCC have responded, by way of statements, one from Canon Williams and one from a former Church Warden, Mrs. Davis, both of 30<sup>th</sup> May 2011. Much of those statements deal with the history of the gestation of this project, which I have set out above and do not repeat. I have referred above to some of the contents of these submissions when I set out the history of the proposed bench seating (which would allow the development of services with additional congregational involvement of the Petitioners), so I do not repeat them here in extenso.

However, Canon Williams stresses that the proposed use of the bench instead of chairs would aesthetically provide a less cluttered, more simple addition which would not obtrude but blend in with its surroundings. If necessary, in the future these new fittings could be removed with minimal disruption, virtually no cost and no damage to the fabric. I agree with him.

Directions were given...”as to the filing of their respective position statements, each side persisted in filing additional statements, replying and counter replying to each other. Notwithstanding these Directions, I have read these additional documents .To a degree there is repetition on both sides, and nothing material is added to the original arguments. Some factual disputes I have referred to in the historic narrative above. However, I must state in his enthusiasm for his objections, Mr. Wardrobe detracts from his own arguments by alleging that the Petitioners and PCC have “restricted knowledge of the Petition for a Faculty to members of the PCC”. I reject this completely, and I have set out above the ways which the PCC advertised their proposals, including by the statutory Notice and a public meeting. If people do not read notices, do not ask questions of their Church Wardens or at an annual general meeting, it ill behoves those people (and Mr. Wardrobe is an honourable exception to this) to criticise the PCC who are doing the work. I find that there was more than ample opportunity (more, indeed, than was strictly legally necessary) for questions to be asked about the project from an earlier stage. Mr. Wardrobe claims that a substantial number of people in the congregation regard, in petitioning for this Faculty the Vicar and Churchwardens have been guilty of “ **a betrayal of trust**” {his words} No other objector puts the case as high as this, and it is to be regretted that Mr Wardrobe has chosen so to do. His later allegations that there was “**a lack of transparency**” on the part of the P.C.C. I reject as totally unrealistic. Projects take time to become even viable ideas. Mr Wardrobe appears to complain that the whole congregation was not informed of the gestation of these ideas at all times. As I have said, this is totally unrealistic. No elected committee is under a duty to provide a running commentary on its deliberations. When the P.C.C. took the decision it proceeded to seek the views of the amenity societies, the DAC and through the public notice period, all other interested people. It even went the extra mile with the computer generated model and the public meeting. I reject this allegation from Mr. Wardrobe of lack of transparency as failing for want of any coherent justification on the evidence before me.

I find that his own wish is to “**keep this Chapel for the true purpose for which it is dedicated**” (again his words). I remind myself of the real history of this Chapel. Many members of the congregation of this Anglican Church might not share his views as to the liturgical importance let alone legality of such expression. In any event I struggle to find that the proposed alterations really constitute any interference with Mr Wardrobe’s views as to liturgical use. Some services may be conducted differently to his accustomed habit.

The additions proposed by the Petition are of such a minimalist nature, well designed and unopposed by a large majority of the congregation: they are reversible, do virtually no damage to the fabric and (Faculty aside) cost the Abbey nothing thanks to the generosity of a donor.

I reject the arguments put forward by Mr. Wardrobe, and in different ways by the other objectors. They have failed not just to persuade me that their case is even persuasively arguable. The burden of proof is on them and I find that they have more than made it out.

THE LAW

There are legal tests I must apply.

I bear in mind the dicta of the then Chancellor Cameron in **Re Emmanuel, Northwood (1998) 5 Ecc. LJ 213**.

I find here that I am satisfied as to the “**why test**”. The Petitioners have satisfied me that what is being proposed could be pastorally effective in promoting in the Parish the mission of the Church as a whole. The “**how test**” is also satisfied; both design, fixings and costs are satisfactory. Given the kind of work proposed, a temporary or experimental scheme would not her be viable or even necessary, so the “**when**” test is also passed. In that judgment the Chancellor stressed the advisability of full consultation with the congregation before the Faculty is presented, but she goes on to say;-

*“That does not mean that the PCC has to secure unanimous support before a petition is presented, nor that it has to jeopardise parts of the scheme to try to meet objections...The matter has then to be put to the test in the consistory court.”*

I have set out above the history of the PCC’s approach to their decision in 2011 to finally apply formally for the Faculty, having done all they could in presenting it in a sensible and detailed way. They have, to my satisfaction complied with the **Re Emmanuel** tests. The more so as what is being proposed is not, by any stretch of the imagination, a major re-ordering. Nothing is being removed, and what is being inserted can be removed without difficulty. It will not adversely affect the character of the Abbey; it covers a very small (albeit prominent) space in one of many Chapels. I am reinforced in these views by the overall lack of concern from the Amenity Societies such as SPAB and English heritage and the DAC. There were some points raised by them as to detail, which the Petitioners clearly answered. There was no concern along the lines suggested by any of the objectors, nor do I find that these concerns taken overall are made out.

The Petitioners have clearly demonstrated a need for such change applying the civil burden of proof which is on them.

Tewkesbury Abbey is a grade 1 listed building. I must therefore consider, in accordance with the test as set out in **re St Mary’s Banbury [1987] 1 AER 247** by the then Dean of the Arches; namely:-

*“When a Church is listed as a building of special architectural or historic interest a faculty which would [adversely] affect its character as such should only be granted in wholly exceptional circumstances clearly showing a necessity for such a change.”*

This is a high test, but here, I consider it to be one which the Petitioners have proved to the requisite degree of proof. The change proposed is very, very minor, and to one (albeit Norman) Chapel. The design is unobtrusive and the effect to the overall ambience will be minimal.

Even if I were to be wrong in that , I bear in mind that the Court of Ecclesiastical Causes Reserved in the matter of **St Stephen’s Walbrook[1989] 2 AER 578 @ 600**, in which Sir Ralph Gibson considered **the St Mary’s Banbury test** to be inconsistent with the statutory duty of any Chancellor to exercise discretion in the context of a Grade 1 listed building being used as a Church “**in the service of God as the church, doing its best , perceives how that service is to be rendered**”.

I, as Chancellor, have to have due regard to “the role of the church as a local centre of worship and mission”: **Care of Churches and Ecclesiastical Jurisdiction Measure 1991 s 1**. Following the dicta set out by the present Dean of the Arches, when Chancellor, in **Re St John the Evangelist Blackheath (1998) 5 Ecc LJ 217**, this is not an essential change, but it is more than merely desirable or convenient. I find it to be reasonable and necessary, to enlarge the use of this Chapel and so enhance its availability for extended work of mission.

This Faculty falls well within test set out in re **St Helen’s Bishopsgate 26<sup>th</sup> Nov 1993 (unreported) London Consistory Court , noted in (1993) 3 Ecc LJ 256 .**

I set out the, by now well known questions which any Chancellor in this situation should ask:-

- 1) Have the petitioners proved a necessity for ..all the proposed works either because they are necessary for the pastoral well being of the parish or for some other compelling reason

**I find the work proposed is pastorally necessary for the work and mission of Tewkesbury Abbey. The petitioners have satisfied me that out of many available side Chapel the Apse Chapel is the most suitable to, by the most minor of alterations, to extend its work of mission to a wider congregation, and provide suitably for a variety of services which can be held there**

- 2) Will some or all of the works adversely affect the character of the Church as a building of special architectural and historical interest?

**The views of English heritage, SPAB and the Church Building Council all showed no concern as to this aspect. The objectors did not call any evidence from any architectural historian that the proposals would have an adverse effect to the fabric.** The work could be reversible, with negligible material damage to the fabric and at little cost. It is **necessary** for additional and different services are to be provided for what is hoped to be a growing body of worshippers. It could potentially assist pastoral growth and development.

- 3) If (as I find it to be ) the answer to (2) above is “yes”, then the Faculty should be granted

For all these reasons, I grant the Faculty as prayed:

1. The work is to be complete within 12 months or within such additional time as the Petitioners may reasonably request
2. As I have set out above, a copy of this judgement is to be on public display in Tewkesbury Abbey for 28 days after receipt by the petitioners. It is also to be available on-line from the Diocesan Registry and, on receipt of proper copying costs, in hard copy from the Diocesan Registry
3. If removed from the Apse Chapel, the Carolean chairs to be placed in another appropriate place within the Abbey

I have not made any orders in respect of some or all of the costs of matter. The Faculty costs themselves are separate, and should be paid in any event by the Petitioners who sought the Faculty. If an application is to be made for all or some of the legal costs of this hearing and its preparation, which the Petitioners have been put to, I will hear any such application on proper notice. I bear in mind that I would have to be satisfied that the objectors were being unreasonable in pursuing their case. I bear in mind the decision in **St Michael’s Averley (1997) 4 Ecc LJ 770** where the Chancellor considered: **“that informed opposition within a democratic church is acceptable but an unwillingness to look at matters objectively and on the basis of information is...unreasonable and unacceptable”**.

Neither side here have had, as yet, the opportunity of addressing me on costs, should those be sought. In the Civil Courts, and even in a Consistory Court, litigation preparation for it and obtaining it costs money; a risk about which any potential formal objector is warned in advance. I make it clear that I have not formed any views as to the question of costs. Neither side asked addressed me on them, and the question may not arise. I merely mention costs as the matter remains at large.

29<sup>th</sup> August 2011

June Rodgers  
Chancellor of the Diocese of Gloucester