

abatement notice, which required him to ‘immediately cease shouting, chanting and jumping on the internal floors to the property so as not to cause a nuisance to the occupiers of neighbouring properties’. The Crown Court had rejected the evidence of the environmental health officers that the noise that they heard constituted a statutory nuisance and were satisfied that Article 9 of the ECHR was not a bar to criminal proceedings. The Administrative Court was not persuaded that the Crown Court had not been entitled to reach the decision that they had. The Court agreed with the Crown Court’s provisional view that, if the service was conducted in such a way that the court found that a statutory nuisance existed, the fact that the nuisance was created in the course of religious worship, in premises registered and with planning permission for that use, would be unlikely to amount to a defence of reasonable excuse nor would a prosecution be disproportionate. [JG]

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### **Re St Mary, Sledmere**

York Consistory Court: Collier Ch, January 2007

*Exhumation – scientific research – public benefit*

The deceased had died in 1919 in the second wave of the Spanish ‘flu pandemic and was buried in a lead-lined coffin. The petitioner, a leading influenza virologist, sought leave to exhume the remains of the deceased to obtain a tissue sample for the purposes of scientific research into the avian influenza virus. The family of the deceased consented to such exhumation. Tissue samples obtained from other sources had proved to be of inadequate quality for research purposes. The chancellor considered and applied the guidelines in *Re Holy Trinity, Bosham* [2004] Fam 125, per Hill Ch; and the decision of the Court of Arches in *Re St Nicholas, Sevenoaks* [2005] 1 WLR 1011. In granting the faculty, he considered the speculative nature of the proposal and applied the principles of proportionality, concluding that the greater the public benefit that might ensue from the proposal, the less weighty the ground required to tip the balance in favour of exhumation. [RA]

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### **Parochial Church Council of Aston Cantlow and Wilmcote with Billesley v Wallbank**

High Court, Chancery Division: Lewison J, February 2007

*Chancel repairs – quantum*

The defendants argued that their liability was limited to keeping the chancel ‘wind and watertight’, relying on a statement on a website, [www.churchlaw.co](http://www.churchlaw.co).