

## **Neutral Citation No [2019] ECC Yor 9**

### **In the Diocese of York**

### **In the Consistory Court**

### **The Parish of Bridlington, St Mary**

### **Bridlington Priory Church**

1. By a Petition dated 5<sup>th</sup> September 2019 and filed online, the Rev Matthew Pollard, Rector, Anthony Halford and Janet Wattleworth, churchwardens, all of the Church of St Mary Bridlington, otherwise known as Bridlington Priory Church, sought a faculty permanently to remove to the diocesan furnishing store or to dispose of by sale the ebonised wooden altar cross on the dorsal shelf of the reredos
2. The matter was considered by the DAC on 3<sup>rd</sup> September 2019. Minutes of the meeting record that “The reredos was constructed in 1875 in Caen stone to the design of George Gilbert Scott. The four outer panels represented the four evangelists, whilst the central panel represented the Agnus Dei. At some time in the past a 4’6” high ebonised cross of unknown provenance (and of lesser quality) had been placed in front of the reredos so that the Agnus Dei was almost completely obscured. The parish now wished to remove the cross so that the reredos could be seen as originally intended. There was no record of any previous faculty having been granted for the introduction of the cross and the Committee agreed that it could be disposed of by sale (the parish did not wish to retain it and the Church Furnishings Officer advised that it would not be suitable for taking to the diocesan store for re-use elsewhere).
3. Although the matter was referred to me immediately on the Online Faculty System, I was informed by the faculty clerk in the Registry that a number of objections had already been received. Some had been delivered to Anthony Halford who forwarded them to the Registry. Others were sent directly to the Registrar. I therefore deferred any consideration of the matter to await the outcome of the correspondence that would then take place between the Registry and those submitting objections.
4. Letters of objection were received from

K Playforth  
Shirley M Playforth  
Anne Pearson  
Betty Cousins  
Roger Fozzard  
Mrs P Fozzard  
Roger Gaitley

Brian Fisher  
Mrs F B Spink

5. The Registrar, in accordance with the Faculty Jurisdiction Rules (FJR) 10.3, wrote to each of the objectors explaining the options facing them, namely whether to formally object by filing a Form 5 document, or to allow me to take their letters of objection into account when coming to my decision, without them becoming parties to contested proceedings.
6. All apart from Brian Fisher and Mrs F B Spink replied saying that they wished me to take their letters into consideration when coming to my decision. That I will do.
7. Brian Fisher and Mrs F B Spink, not having replied to the Registrar's letter, under FJR 2015 Rule 10.3(2)(d) are 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 document dated 27<sup>th</sup> October 2019 setting out their response to the letters of objection.
9. I can summarise the objections that have been made. Several people complain that the cross was removed several months previously without notification and without any discussion with those who attend worship services. Several referred to the cross being a focal point in services. Others stressed that it is the central symbol of their faith and particularly relevant as a focus when receiving the Eucharist. It is also argued that vases of flowers remain on the dossal shelf and perhaps a smaller cross could be obtained which would not protrude over the Agnus Dei.
10. It is said by one person that some people have stopped attending the Priory Church, and that others make a point of consuming the host in the adjoining chapel which has a cross.
11. In their response the petitioners acknowledge that a number of people have been caused distress by the lack of consultation preceding the removal of the cross. They regret this and apologise for it. They also acknowledge the symbolic significance of the cross and the spiritual succour many received from it as the focus of devotion when receiving the sacrament. They say however there is an abundance of Christian symbolism in the church's sanctuary including, but by no means limited to, a cross at the top of the reredos and the carving of the Agnus Dei which is obscured by the cross in question. They do not believe that the removal of the cross would constitute a deprivation of symbolism and do not understand why it should make anyone feel unable to receive the sacrament. Their sole concern is the integrity of the design of the reredos.

12. In all these circumstances the matter has now been referred back to me for a final decision in relation to the proposals.
13. The test that I must apply is to consider whether the petitioners have made out a substantial case for their proposal.
14. The case they advance is that although this building goes back to the 12<sup>th</sup> century it was rebuilt in the 13<sup>th</sup> century and that following the demolition of parts of the building during the dissolution of the monasteries it was rebuilt and improved by the Victorians including Gilbert Scott in the 19<sup>th</sup> century. It was then that the reredos was introduced. The petitioners say that it is generally considered to be of 'considerable historical and artistic significance, being finely executed and part of the wider ordering and repair scheme by Scott in the late 19th century'.
15. It is not known when the cross was introduced. There is no record of that taking place. There is no record of any faculty being granted for its introduction. It may of course be the case that when it was introduced it was regarded as something that did not require a faculty. What is sometimes known as the "de minimis" principle was established in 1821, if not previously, in the case of *Parham v Templar* (1821) 3 Phillim 515 at 527<sup>1</sup> in which an action had been brought against a curate, Templar, for altering some pews without proper authority. Having dealt with and dismissed the criminal and civil allegations that were made against the curate, Sir John Nicholl, the Dean of the Arches, went on to consider whether a faculty should have been sought. He stated that "it is not to be maintained that every little alteration of a pew, where no private rights are infringed, requires a faculty. No rights of the parish are infringed; the alteration is for the accommodation of the parishioners, and it is a very trifling one. In important alterations, where parishioners are to be burthened with additional rates, it is highly proper, and indeed quite necessary, that a faculty should be applied for." That principle became well established. It was the origin of the issuing by chancellors of 'de minimis' lists in which they gave guidance as to matters for which they would not require a petition for a faculty. That system was abolished with the introduction of Lists A and B under the Faculty Jurisdiction Rules 2015 which attempt to define the matters for which no faculty is required.
16. Neither the de minimis list for this diocese issued by Coningsby Ch in 2005, nor Lists A or B allow for the introduction of a cross without a faculty; but it may well be that whenever this cross was introduced no one thought it necessary to apply for a faculty to do so.
17. As for the introduction, removal, or disposal of items, there is a general principle applicable to items in Lists A and B, namely that items of historical or artistic interest will require a faculty as will introductions removals and disposals that

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would result in a change to the overall appearance of the church. It is arguable that the removal of this cross which was prominent in its setting would result in such a change in appearance.

18. I need to consider the various matters raised by those who wrote letters of objection. They essentially boil down to the visual focus which this cross provided for their worship particularly in the context of the Eucharist.
19. In that context I have turned my mind as to whether there are any rules or guidance provided about the place of a cross in churches. The short answer is that there are no rules and no guidance. There is no requirement in canon law for there to be a cross in a church. The canons provide that there shall be a font (Canon F1) and a holy table (Canon F2). There are also requirements in the following canons for the provision of communion plate, communion linen, surplices for clergy, reading desks and a pulpit (unless a pulpit is not required), seating for parishioners, at least one bell, and an alms box. There are some detailed requirements about Bibles and prayer books - there must be a large-size one of each and also a Bible to be kept in the pulpit for the use of the preacher; and also a service book together with a cushion or desk for use at the communion table. But nowhere is there any requirement for a cross.
20. The only reference to the cross in the Canons is B25 which speaks of the sign of the cross in baptism. It states that "The Church of England ... teaches still, that the sign of the Cross is no part of the substance of the sacrament: but, for the remembrance of the Cross, which is very precious to those who rightly believe in Jesus Christ, has retained the sign of it in baptism, following therein the primitive and apostolic Churches".
21. That of course is consistent with the history of the place of the cross as a symbol of the Christian faith. Since the time of the early church the cross has been used as a symbol of Christian faith. It was one of a number of symbols. Other symbols included  $\text{ΙΧΘΥΣ}$  (or a depiction of a fish),  $\Lambda$  and  $\Omega$ , and Chi Rho.
22. According to Tertullian in his book *De Corona* (204 AD) it was common practice for believers to trace on their foreheads the sign of the cross. However, actual crosses or images of crosses were rarely used because of their association with the practice of crucifixion. After the conversion of Constantine, said by Eusebius to have been brought about by his vision of a cross, he banned crucifixion as a death penalty and the cross became a more commonly used symbol of Christian faith. Tom Holland in his recent book *Dominion*, states that "Only centuries after the death of Jesus – by which time, astonishingly, even the Caesars had been brought to acknowledge him as Christ – did his execution at last start to emerge as an acceptable theme for artists. By A.D. 400 the cross was ceasing to be viewed as something shameful." Subsequently after the Reformation the use of the cross on or in churches declined in England, but it revived again from the mid 19<sup>th</sup> century becoming quite common in the 20<sup>th</sup> century.

23. The present position is that although many churches do give a cross a prominent position on or near the holy table it is by no means a universal practice.
24. This is the historical context in which I have to judge the application by the minister and churchwardens supported by the PCC to remove the cross that has stood for some years immediately in front of the centre panel of the reredos notwithstanding the resistance to that proposal by 9 members of the congregation.
25. Unlike cases involving alterations to the fabric of listed buildings where the consistory courts have been given very clear guidance as to how the issues should be approached - see *Re St Alkmund, Duffield* [2013] Fam 158, cases involving moveable items and furniture that have no historic significance are more difficult. The principles are that ultimately the matter lies in the judicial discretion of the chancellor to be exercised on the evidence presented to the court. It has always been understood that the burden of proving a case for any change lies on those presenting it. The weight to be given to the fact that a proposal comes even with the unanimous approval of the parish must always be “according to the circumstances of the case under consideration” – *Folkestone Parish (Parishioners) v Woodward* (1880) Trist 177 at 178. That means that even unanimous local approval will not necessarily carry the day. Chancellors are always conscious of their responsibility for upholding the principle that churches do not belong to any congregation at a given moment but whilst being the current place in and from which worship and mission are carried on, they are also being cared for and held in trust for future generations to continue those roles “afresh in each generation”. Just as a unanimously supported petition may not always be granted, so one that meets some significant local resistance will not necessarily be refused.
26. It is the common experience of chancellors that many people who were baptised in their local church and who then spent their lives in that church have a faith that is very rooted in the building, its fixtures and furnishings. Their Christian pilgrimage has been shaped by the building and their experiences within it. They may remember sermons preached from a particular pulpit, or a particular awareness of God’s presence as they knelt at a particular spot, or simply their experience of the corporate aspect of their faith week by week coming from sitting in a particular pew. None of these things are to be belittled, they are very real and significant.
27. However, when people move from one place to another, although they may hope that their new church will be like their previous one, they inevitably find that it is not. The place is different and things are done differently. This often proves to be a moment for moving on in one’s pilgrimage, experiencing things differently and gaining new insights.
28. How does all that play out in this case? The starting point is that the reredos which is the backdrop and setting for the holy table was erected in the late 19<sup>th</sup> century. It has at its centre an Agnus Dei; the other four panels contain images of the four evangelists. It is full of Christian and gospel symbolism. It is a wholly fitting setting for the drama that will be enacted in front of it week by week. The vicar, supported

by the wardens and PCC, wish to restore the visibility of that work in its original integrity. That integrity is currently obstructed by the cross which has no other merit than being a cross. It has no historic or artistic value. The diocesan furnishings officer has declined an offer to house it pending use elsewhere as that is not thought a suitable use of their limited storage space.

29. Weighing up all these matters, I am satisfied that the petitioners have made out a case for their proposal. I am satisfied that there will be significant gain from displaying the reredos as originally intended.
30. It is unfortunate that the matter was not more fully discussed with the whole congregation before it was put into effect. The petitioners acknowledge their mistake in that respect. My hope and prayer is that those who have found this change painful and difficult might even at this stage see it as an opportunity to embrace change and look to see what new things they can learn from a different visual experience of worship in this historic building which has seen much greater changes than this in its history.
31. I therefore propose to allow the petition and grant a faculty
32. This being an 'opposed' petition the petitioners will have to pay the additional costs created by this being an opposed petition.

Canon Peter Collier QC  
Chancellor of the Diocese of York.

8<sup>th</sup> November 2019