

Neutral Citation No [2022] ECC Yor 2

In the Diocese of York

In the Consistory Court

The Parish of Helmsley

Church of All Saints

1. By a Petition dated 5th July 2022 and filed online, the parish being in vacancy, Anne Rutter and Richard Adam Hiscocks, churchwardens, sought a faculty to:
 1. remove from the Chancel south wall a Royal British Legion flag and a regimental flag and their mounts, all installed without permission,
 2. return the regimental flag to its former position on the Chancel north wall, directly behind the arch, and
 3. mount one Royal British Legion branch flag and one Royal British Legion Women's section flag on the Chancel north wall above the War Memorial
2. The matter was considered by the Diocesan Advisory Committee (DAC) on the 17th May 2022 when the DAC recommended the proposal.
3. The matter was referred to me on the 1st August 2022 on the Online Faculty System. I dealt with it the 2nd August 2022 and directed that I was satisfied that the petitioners had made out their case and I directed that that "subject to the relevant display of Public Notice and no objection being received, a Faculty shall pass the seal until further order".
4. Following the display of Public Notice several letters were received in the registry. They were from Ms Katherine Senior, Mrs Mary Stewart. Mr Christopher Rose, and Mr Derek Bradley. I will deal with the contents of those letters in due course. Additionally, the Revd Ian Robinson who is the priest who has responsibility for looking after the parish during the vacancy sent an email suggesting how in his view matters might best proceed.
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. Ms Senior replied saying that she was content for me to take her letter into account without her becoming a party opponent. Mr Rose spoke on the phone to the registry and asked for his letter to stand as his objection. There was no reply from other correspondents. Consequently, under FJR 2015 Rule 10.3(2)(d) those who did not reply are deemed not to have become parties opponent. FJR 10.5(2) then requires me to take account of any letters of objection, and any comments on them received from the petitioners, in reaching a decision on the petition.
7. The Registrar had of course also written to the Petitioners to inform them of the objections received. In due course they responded to the objections in a letter dated 13th September 2022 setting out their response to the letters of objection.
8. This is an unusual matter and it was not easy to understand the history. Fortunately within the papers was an email to the Archdeacon of Cleveland from Keith Halliday, the diocesan Church Buildings Adviser setting out the history. The relevant part read as follows:

“The flags:- there are four flags, three British Legion and one regimental. There was already a flag holder in the north wall of the chancel, directly behind the arch, for the regimental flag. There weren't however, mounts for the three British Legion flags. Therefore, four new mounts were commissioned and paid for by a benefactor that were matching and two were mounted either side of the chancel. The original Faculty was granted for two flags to be mounted above the wooden panelled war memorial on the north wall, however, it seems that four were erected some two years after the Faculty ran out, the delay due to Covid. In the meantime, there have been some objection to the flags on either side of the chancel and the DAC Secretary has been made aware. The meeting today was to try and reach a situation where the flags can be mounted with least impact on the Chancel, the Sanctuary and the east window.”
9. The reference to “the faculty” is to a faculty I directed should issue on 30th October 2019 “to raise two Royal British Legion flags on the north wall of the chancel above the War Memorial”. I had allowed 3 months for completing the proposal ie by the end of January 2020. The DAC meeting which recommended that proposal had agreed to pass on advice to the parish that the correct way to hang standards on a wall was horizontally as this preserved the fabric better than hanging them at an angle.
10. It then appears that the intervention of the Covid pandemic meant that nothing was done to carry that faculty in effect. However subsequently when the building reopened for public use and people began to attend services again, someone paid for 4 wall mounts to be installed in the chancel, two on each side so that 4 flags could be hung at an angle. The 4 flags were the two British legion flags subject to the 2019 petition, a further British Legion flag and the flag for the 22nd Dragoons which had until then been positioned behind the chancel arch above the western end of the war memorial and adjacent to a wall panel dedicated to the regiment.
11. The Rev Tim Robinson had retired as priest in charge of All Saints in September 2021 and the installation of these four flags took place during the vacancy.

12. The installation of the four flags caused some controversy in the parish and was discussed at an extraordinary meeting of the PCC on 9th March 2022. The meeting followed a visit by Keith Halliday to the parish earlier in that day. He had suggested that there were three options that the parish could consider. First that they could apply to maintain the status quo; second they could put the regimental flag back behind the arch and either give the third British legion flag to the town hall for display or place it with the regimental flag behind the chancel arch; or third they could choose a new position somewhere else in the church to hang the flags. The PCC opted to follow the second proposal (seven members being in favour and one against).
13. Consequently the proposal was presented to the DAC which considered it on 17th May 2022 and recommended the proposal.
14. I will summarise the objections that have been made. Katherine Senior is a regular worshipper at All Saints and a member of the PCC. She says that she is aware of the debate about flags currently hanging in the sanctuary; and that she is also aware of the Archbishop's diocesan ruling that "nothing should be introduced into a church which is not good in itself and suitable to a situation". She has only recently become a PCC member and says that she was not privy to the original decisions. She says that she was surprised and dismayed when they first appeared and was told then that they had only been placed there temporarily in honour of a deceased grandee whose funeral had been held in the church. She says that she could have accepted a temporary situation but does not think it appropriate for it to continue. She does consider it appropriate for the regimental flag to go back to its original position behind the chancel arch, but she asks for all the British Legion flags to be removed as they are an impediment to worship; and not suitable in a church the primary purpose of which is to worship God. In her letter to the Registrar asking for her letter to be taken into consideration without her becoming a party opponent, she points out that the flags have currently been taken down so that work can be done on the roof and there has been no complaint that they are no longer there.
15. Mrs Mary Stewart says that the flags clutter up the space there which should be about the worship of God and the sacrament of Holy Communion. She says that 22nd Dragoons already have a large wall panel dedicated to them and that their flag used to hang appropriately under the tower.
16. Mr Derek Bradley "objects to the flags been (*sic*) in the sanctuary at All Saints, except the regimental flag which should be put back in its original position".
17. Mr Christopher Rose is of the opinion that there should be no flags whatsoever in the sanctuary at All Saints, and that only two should be permitted and hung on the north wall. That, if I understand the proposal and his email correctly, is the position that the petitioners seek.
18. The Revd Ian Robinson sent an email to the registry in which he said that he did not object to the application per se but asked for directions that none of the flags are

hung within the sanctuary area of the chancel and that the fixing should be such as to make the flags stand 'almost vertically' so that they do not protrude into the main body of the chancel.

19. There is some lack of clarity about the precise position of the flags currently on the north wall. Ms Senior, Mr Bradley and Mr Rose all refer to the flags being in the sanctuary. I have been provided with a photograph showing all four flags where they were installed. And I also have the original proposal from 2019 marking on the wall above the war memorial where they were to be installed. I have assumed, but it is not crystal clear from the photograph that all four flags are within the chancel where permission was given for the north wall flags, and not within the sanctuary ie behind the altar rail. I believe that people are using the word sanctuary to describe what is strictly the chancel.
20. If I am wrong about that and that the north wall flags need relocating in order to be properly in the chancel in accordance with the original 2019 faculty then that will have to be done. The church has a faculty for that, although it had technically lapsed when they were installed. I have assumed that item 3 in the petition is effectively asking for a confirmatory faculty for their late introduction.
21. To summarise the position and the issues. In 2019 I was asked to authorise the hanging of two British Legion flags above the war memorial in the chancel of this church. The proposal which had the unanimous support of the PCC was recommended by the DAC. There was no objection to the proposal. I directed that a faculty issue. Some two years later and after the disruption caused by the pandemic the two flags were installed and two more were installed on the opposite side of the chancel. The PCC now wish to remove the two which were unlawfully installed, returning one of them (the regimental flag) to its original position immediately behind the chancel arch above the war memorial.
22. Some of the objections are to the presence of any flags whether in the sanctuary or in the chancel other than the regimental one provided it is effectively out of view behind the arch. In their response, the petitioners say that if there are objections to the flags the installation of which was approved in 2019 then that should be the subject of fresh consideration by the PCC and if approved a further faculty should be applied for.
23. In my judgement there is sense in what the petitioners say. This petition does not concern two of the flags which either have been or will be lawfully installed in accordance with the 2019 faculty; it relates to the other two. There is agreement on all sides that those two should be removed and also that the regimental flag should be replaced in its original position behind the chancel arch.
24. Mr Richardson's suggestion that the flag should be hung 'almost vertically' is contrary to the advice of the DAC that they really need to be hung horizontally to stop them deteriorating. What may in the future be significant is his view that these lawfully installed flags are an intrusion into the worship space.

25. Ms Senior is now a member of the PCC. She can raise the issue about these lawful British Legion flags with the PCC and if there is substantial support for her views as she suggests there is then a proposal can be made to remove them.

26. I therefore propose to allow the petition and grant a faculty.

27. I will allow 6 months for the completion of the proposals.

28. 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.

14th November 2022