



Neutral Citation Number: [2020] ECC Oxf 4

*Faculty – Grade I church – Installation of family banners -Whether requirement of exceptionality applies –
Appropriate test to apply*

Application No: 10756

IN THE CONSISTORY COURT
OF THE DIOCESE OF OXFORD

Date: 11 March 2020

Before:

THE WORSHIPFUL DAVID HODGE QC, CHANCELLOR

In the matter of: HOLY TRINITY, BLEDLOW

And: THE PETITION OF BARON CARRINGTON DL

Determined on paper

The following cases are referred to in the Judgment:

Re St Alkmund, Duffield [2013] Fam 158

Re St. John, Out Ramcliffe [2017] ECC Bla 11

Re St Margaret, Eartham [1981] 1 WLR 1129

Re St Mary, Longstock [2006] 1 WLR 259

JUDGMENT

Background facts

1. This is a faculty petition presented by the present Lord Carrington DL (the 7th Baron) to install two heraldic banners belonging to his late father, the 6th Baron Carrington (1919-2018), a patron of the church, at the west end of the nave of the church so as to face each other on either side of the west nave arch and to be supported by black wrought-iron poles about 6.5m metres high which will be attached to the walls by brackets. One banner (to be hung on the south side of the rear of the nave) is the late Lord Carrington's banner as a Knight Commander of the Most Distinguished Order of St Michael and St George (KCMG). It dates back to about 1958 and was previously displayed at St Paul's Cathedral, London. The late Lord Carrington was the Chancellor of the Order from 1984 to 1994. The other banner (to be hung on the north side of the rear of the nave) is the late Lord Carrington's banner as a Knight Companion of the Most Noble Order of the Garter (KG). It dates back to about 1985 and was previously displayed at St George's Chapel, Windsor. The late Lord Carrington was the Chancellor of the Order from 1994 to 2012. Images of the two heraldic banners are attached at the end of this judgment.

2. According to the Statement of Significance, the Grade 1 listed church of the Holy Trinity, Bledlow is set on the edge of the Chilterns Area of Outstanding Natural Beauty and forms the focal point of the conservation area of Bledlow village, on the escarpment running down from Bledlow Ridge to Aylesbury Vale. For 900 years, the inhabitants of Bledlow are said to have assembled in Holy Trinity for prayer and praise. Successive builders and craftsmen have added to the structure, and in some cases destroyed many features, but the integrity of the church has survived and evolved to meet the needs of its worshipers over the centuries. Holy Trinity began as a 12th Century Norman church, potentially cruciform in plan due to the two side chapels at the east end of the north and south aisles. Traces of the Norman church may still be seen in the two round headed doors, one in the south wall of the chancel and the other in the north wall of the north aisle. The church was much rebuilt and enlarged during the early 13th Century adding the four bays of the nave and the chancel arch. Much of the north and south aisles were rebuilt, a new south door was inserted, and the bell tower was added during the late 13th Century. This door is one of the earliest still in use in Buckinghamshire. The south porch and a west door in the base of the tower were added in the 14th Century as were tracery windows with leaded plain glass and stained glass, some dating back to the early 14th Century. The nave has good early 13th Century arcades with four bays of unmoulded arches of two orders on circular piers with variously carved foliage capitals. In the late 19th Century a Victorian chancel screen was inserted, destroying stone dressings on the face of the chancel arch. The church is said to present a good historical representation of ecclesiastical architecture, adapting over the centuries from the original in the 12th Century to the present day. There are examples of pre-Reformation wall paintings, depicting Biblical scenes, and of post-Reformation "sentences" in Roman lettering.

3. The church was first listed on 21 June 1955. The listing description states:

"Parish church. Originally C12, much rebuilt and enlarged C13, with C14 S. porch. Roof altered early C16, all restored 1909. Flint with stone dressings and lead roofs. W.

tower, nave, aisles, S. porch and chancel. W. tower is of 3 stages with gabled roof, plain parapet, carved head corbel table, 2-light traceried openings to bell-chamber, and small lancets to middle stage. On the W. side there is a 2-light traceried window over a moulded doorway. Flanking aisle bays each have a single arched light to W., the S. bay with a 2-light traceried S. window. Nave has a 3-bay clerestory of 3-light cusped windows, all heavily restored. Traces of a blocked opening high at E. end of N. clerestory. Aisles have moulded parapets and late C13 2-light traceried windows. Central N. window altered with C14 reticulated tracery; 2 S. windows also altered, the left with Y tracery, the right a large C14 Decorated window of 4 lights with early C18 memorial tablet below. E. bay of N. aisle is of a different build, possibly incorporating remains of a C12 transept, and has C15 flat-headed window in E. wall. N. doorway also C12 with semi-circular unmoulded arch on moulded imposts. S. door has moulded arch of 3 orders, the outer 2 on shafts with stiff-leaf capitals. Large stoup to right. S. porch has later moulded arch of 2 orders, the inner on semi-octagonal piers with moulded capitals, and carved head corbel and sundial set into parapet. Inside are stone benches and a moulded ceiling beam. Chancel also has 2-light traceried windows, the N. side with 2 cusped lancets, one transomed, the S. side with blocked semi-circular headed opening. E. end of chancel has triple lancets with taller central light. C19-C20 buttresses, one with C18 memorial tablet. Interior: tower has double chamfered arches to nave and aisles, the inner order on semi- octagonal piers, with larger arch to nave. Nave has good early C13 arcades with 4 bays of unmoulded arches of 2 orders on circular piers with variously carved foliage capitals. End arches on carved corbels. Traces of wall paintings and painted texts above, the N.E. wall of nave with painted panel of The Creed. C16-C17 nave roof. C19-C20 half arches divide main aisles from W. bays. N. aisle has altar recess and clunch niche in E. wall; S. aisle has aumbry to left of door, 2 shallow tomb recesses with moulded 4-centred arches, piscina, and rectangular recess with painted texts in E. wall. Both aisles have traces of wall paintings, including figures of St. Christopher; and Adam and Eve. C15 roofs with carved bosses. Chancel arch is similar to nave arcades and rests on corbels with carved heads. Carved head corbels above support early C20 rood. Chancel has moulded sill course incorporating remains of 2 carved finials. Narrow trefoil recess in N. wall with brass to William Hern, priest, 1525. Trefoil piscina with recess below. E. window has fine internal treatment with stilted arches on slender shafts with moulded caps and bases. S.E. window has similar shafts and carved heads at imposts and apex. Fittings: fine C12 font of Aylesbury type with carved frieze, fluted bowl, cable moulding and foliage in inverted scallops on base; C15 eagle lectern on early C20 stand; C17 altar table in S. aisle; C18 carved wooden candlestick with claw-foot base; late C19 stained glass. Pair of mid C18 marble wall tablets to members of the Crosse family on E. wall, both with scrolled pediments. RCHM I. p. 51-55.”

In summary, this is a well-preserved medieval village church of exceptional architectural and historic interest which is comprised within the most significant 2.5% of listed buildings.

4. The faculty application has the full support of the Parochial Church Council. No objections have been received in response to the public notices. The Diocesan Advisory Committee (DAC) did not consider that the proposal was likely to affect the character of the church as a building of special architectural or historic interest. Its Notification of Advice, issued on 15 January 2020, states that the DAC does not object to the proposal being approved by the court but, as it was conscious that there are wall paintings present in the church, it encouraged

the parish to appoint a conservator to undertake an investigative study to discover if there were any paint fragments in the area immediately surrounding that where the brackets are proposed to be fixed. The DAC's principal reason for advising that it did not object to the proposal, rather than positively recommending it for approval, was said to be that the banners are a "non-secular" item (surely a mistake for "non-ecclesiastical" since they are clearly secular) which would be likely to be imposing in the west end of the church; and the DAC does not consider the banners to have a pleasing design in keeping with the church interior. However, the DAC were mindful that the introduction of the banners was reversible and so would not cause lasting damage to the church. The DAC did not recommend that the Church Buildings Council (CBC) should be consulted about the proposal. However rule 9.6 of the Faculty Jurisdiction Rules 2015 (FJR) requires the Chancellor to seek the advice of the CBC on any proposal that involves the introduction of any article (including a fixture) of special historic or artistic interest. The court therefore caused the CBC to be consulted about the proposal. By an email dated 10 March 2020 the CBC stated that they have no objection to the hanging of the banners at the west end of the church. Their only concern would be the presence of medieval plaster in this area (which the parish did acknowledge in their statement of significance) that could possibly contain wall paintings obscured by later limewash. The parish states that it is confident that there are no remains of wall painting or medieval plaster in this area of the church. The CBC note that the church had commissioned and received a detailed written technical survey of the wall paintings in the nave (predominantly an early 14th Century scheme with a 15th Century St Christopher) from conservators (Tobit Curteis Associates) in April 1997 and that this assessment is included in the documents provided but this does not mention the west wall. They also note that the arch into the tower appears to have been inserted in the late 13th Century, so the plaster may not be co-eval with the rest of the nave, but the CBC consider that it would be prudent to have a wall painting conservator examine the area for any traces of wall paintings. The CBC recognise that the parish may have given more explicit evidence that the plaster here is later, but there does not appear to be any record of it in the documents provided. As a matter of caution, the CBC would recommend checking the area thoroughly but if the parish can provide the necessary assurances, then they have no objection to the hanging of the banners in this area. The court will include a condition in the faculty to address the concerns of both the DAC and the CBC in this regard.

The proper approach

5. Since the banners are to be hung in the church to commemorate the late Lord Carrington, the court has to consider whether the requirement of exceptionality relating to the character or service of the person to be commemorated that would apply in the case of the erection of a monument or memorial plaque applies also in the case of the present faculty application. A similar question was considered, in the context of the introduction of a stained glass window, by Deputy Chancellor Mark Hill, in the Winchester Consistory Court, in *Re St Mary, Longstock* [2006] 1 WLR 259 (decided prior to the decision of the Court of Arches in the leading case of *Re St Alkmund, Duffield* [2013] Fam 158). The vicar and churchwardens of a Grade I listed church had sought a faculty for the installation of a stained glass window in the west window in memory of the wife of a canon who had served in the parish. The contribution of the canon to the church community and the church building had been considerable and in this role he had received the constant support of his wife. The faculty was not opposed and had the support of the Council for the Care of Churches.

6. Granting the petition, the Deputy Chancellor held that as a stained glass window adorned or beautified a church, and comprised part of its fabric, it was not a memorial and the test of exceptionality relating to the character or service of the person to be commemorated was not appropriate. The petition was to be judged on the merits of the proposed window itself. As the church was a listed building there was a powerful presumption against change. However, there were strong pastoral reasons why a window should be erected in memory of the canon's wife. It was reasonably necessary and requisite, as a matter of pastoral well-being and for the living out of the Christian gospel, that the parish recorded her life. The proposed window would not adversely affect the appearance of the church nor its historic, architectural or artistic setting or integrity. In the course of his judgment, the Deputy Chancellor said this (at paragraphs 2 to 4):

“2. There is a consistent line of authority in English ecclesiastical jurisprudence to the effect that the grant of faculties for the erection of memorials should be ‘sparingly exercised’: see *Dupuis v Parishioners of Ogbourne St George* [1941] P 119. The ratio decidendi of a leading decision of the Court of Arches indicates that a case of exceptionality must first be made out in relation to the character or service of the person to be commemorated: see *In re St Margaret's, Eartham* [1981] 1 WLR 1129 .

3. However memorials, properly so styled, comprise plaques (be they of brass or stone) together with, for example, the more elaborate funerary monuments beloved of the Victorians. Objects which adorn or beautify the church and comprise part of its fabric are not memorials in this strict sense, albeit they may be erected in memory of a particular individual: see *In re St Peter, Oundle* (1996) 15 Consistory and Commissary Court Cases, Case 29, concerning stone likenesses of an incumbent and former bishop as label stops on nave arches.

4. I take the view, in this instance, that where a petition is for the installation of a stained glass window, the test of exceptionality is inappropriate. It is therefore unnecessary for me to undertake the invidious task of ruling upon whether or not a case of exceptionality is made out in relation to the character or service of the late Jane Bown and I decline to do so. Rather, the petition is to be judged on the merits of the proposed window itself.”

7. In *Re St. John, Out Rawcliffe* [2017] ECC Bla 11 Chancellor Bullimore, in the Blackburn Consistory Court, came to the same conclusion, apparently without reference to Deputy Chancellor Hill's earlier decision. The application was for a faculty to install a stained glass window in a Grade II listed church in memory of the late husband of the church organist (and the “rock” who had supported her). The deceased had been a farmer, and the design (recommended by the DAC) included “two doves and an owl, a small figure in silhouette, possibly sowing in a broadcast fashion, and a donkey and rabbit, with a tree in leaf and on the branches the words: ‘Lord make me an instrument of your peace, where there is hatred let me sow love’”. The CBC were of opinion that this design would not sit well with the other stained glass windows in the church, which depicted single figures in a more traditional design. However, the Chancellor determined to grant a faculty. There was a memorial inscription on the proposed window but the Chancellor did not consider that he had to treat an application for a memorial window in the same way as an application to introduce a memorial into a church (namely, that the deceased should have made some outstanding contribution to the life of the church, the community or the nation).

8. In the course of his judgment (at paragraph 5) the Chancellor noted that one procedural problem that had emerged was that, in a case like the present, where the introduction of an article of special artistic interest into the church was proposed, rule 9.6 of the FJR required the advice of the CBC to be obtained by the Chancellor, if it was not already available. There was said to be no discretion about this: it had to be obtained. It was with this statement in mind that, in the present case, the court required the CBC to be consulted.

9. The Chancellor set out his approach to the application at paragraphs 17 to 21, as follows:

17 At an early stage ... I put forward the view that I would have to consider that the introduction of a memorial window would need to be approached in the same way as an application for the introduction of a memorial plaque to a particular individual, namely, that the individual in question had to have made some outstanding contribution to the life of the church, the community or the nation, before the privilege of being allowed a memorial could be permitted (relying on the Court of Arches decision in *Eartham, St Margaret* [1981] WLR 1129 and the discussion in Mynors: *Changing Churches* (Bloomsbury, 2016) at paragraphs 13.7.3 and 13.7.5).

18 At the time I first made this point, I knew nothing about [the organist's husband]. I have now had the information summarised above that the parish priest has made available. It is clear that the test has as one of its primary objects, the wish to stop the interior of churches becoming covered with memorials – a feature of many 18th and early 19th Century churches, particularly in large towns and cities. The multiplication of such plaques or tablets, usually bearing extravagant tributes to the character of the deceased, does little to encourage worship, although they can provide distraction to those whose attention is wandering.

19. However, having given the matter more consideration, there does seem to me to be a significant difference between a memorial plaque, and a window given in memory of another. However fine the design and other features of a plaque, or its value as an example of the stonemason's art, it never ceases to be just that, and points clearly towards the person commemorated. A stained glass window should be an object of beauty in itself and should adorn the building, as well as evoking higher thoughts in the observer, as well, for some period at least, as stirring remembrance of the individual commemorated. Many of the stained glass windows in our churches, on inspection, carry some modest mention of an individual in whose memory they were given, but most of the congregation are now only conscious of the content of the window itself, that is, the individual or scene depicted. The person now commemorated is just a name. It seems to me that Chancellor Mynors's comment at 13.7.3: 'Where, as is not unusual, a window is to be erected as a memorial the issues at stake will be those considered below' (the *Eartham* considerations) 'in relation to new memorials generally', goes too far, and ignores the significant questions that arise about the introduction of any artistic work.

20. Although it was difficult to bring [the organist's husband] within the *Eartham* test, I had reached the conclusion that the overall impact of the information provided to me justified approval of the application in this regard. It appears to me there is something unattractively elitist about the test, whatever its undoubted merits in limiting the number of applications for memorials, and that the vast number of Christian people who live out their lives quietly and faithfully are being devalued as a consequence. It is not a question

of having a ‘right’ to a memorial; that will always be a privilege. It seems to me, there is something ‘wrong’ and rather ‘unchristian’ about measuring success, or memorability, only by what individuals are seen to have achieved outwardly, before their lives can be publicly remembered. There is after all, a good deal in the Gospels, about doing good in secret, and not parading it about (Matt. 6:1-6), and about doing good unselfconsciously (Matt. 25: 37ff). St Paul was anxious to encourage the recipients of his letters to ‘consider their call’. They were ‘not many wise by human standards, not many powerful’, but should reflect on the position they were held in by God and revalue themselves accordingly (1 Cor 1: 20ff).

21. I remain doubtful that there should be the same approach to a window in memory of another, and a memorial plaque or tablet, in the way Chancellor Mynors suggests. It seems to me appropriate that [the organist’s husband] is commemorated in this way.”

10. Whilst I am not without sympathy for Chancellor Bullimore’s concerns about the unattractively elitist approach enjoined by the *Eartham* test, this is not an appropriate occasion to review that test, even if it were open to this court to do so given that the *Eartham* case is a decision of the Court of Arches. The decisions in *Longstock* and *Out Rawcliffe* are authority for the proposition that the *Eartham* test of exceptionality, which applies to the introduction of a memorial into a church, does not apply where what is sought to be introduced into a church is an object, such as a stained glass window, which should adorn and beautify the church and comprise part of its fabric, even though it may also commemorate a particular individual. A heraldic banner is in something of a hybrid category. Unlike a stained glass window, it will not have been conceived as an object of beauty in itself, adorning the church building, and evoking higher thoughts in the observer. Inevitably, its design will be specific to a particular individual, and it will not have been devised with a view to being “pleasing” or “in keeping with” the interior of the church; and, for some time at least, the banner is likely to recall that individual to the mind of the observer: that, after all, was the original purpose of a heraldic banner. Because the design of a heraldic banner will be specific to the individual in question, unlike a stained glass window, it cannot be appropriate to judge it solely by reference to its own intrinsic merits (although this will inevitably fall to be considered when addressing the series of questions identified by the Court of Arches in the leading case of *Re St Alkmund, Duffield* [2013] Fam 158). It is also relevant to bear in mind that the holder of a heraldic banner of one of the nation’s distinguished orders of chivalry is often likely to be a person who has made a distinguished contribution to the life of the nation; but it would not necessarily be appropriate, for that reason alone, for that individual to be commemorated in a church building with which they had enjoyed no personal connection during their lifetime. For these reasons, the court considers that the appropriate test to be applied to an application to introduce a heraldic banner into a church building (as a pre-condition to addressing the *Duffield* questions) is whether, during their lifetime, the former holder of the banner has made an outstanding contribution to the life of the church, the local community or the nation and (if the latter) that they had enjoyed a sufficiently close connection to the church or the local community.

Decision and reasons

11. The court is satisfied both that during his long life the Late Lord Carrington had made an outstanding contribution to the life of the nation and that he had enjoyed a sufficiently close

connection to the village of Bledlow and its church. In a long and distinguished life of public service, Lord Carrington had served as Leader of the House of Lords (from 1963 to 1964), Defence Secretary (from 1970 to 1974) and Foreign Secretary (from 1979 to 1982). On the international stage, he was the Secretary-General of NATO from 1984 to 1988. He had chaired the Lancaster House conference in 1979, attended by Ian Smith, Abel Muzorewa, Robert Mugabe, Joshua Nkomo and Josiah Tongogara, which had brought an end to Rhodesia's Bush War. Lord Carrington was Foreign Secretary when Argentina invaded the Falkland Islands on 2 April 1982. He resigned from that position on 5 April, taking full responsibility for the complacency of the Foreign and Commonwealth Office in its failure to foresee the invasion and for the misleading signals sent out by the Foreign Office about Britain's intention to retain control of the Falklands. In her autobiography, Margaret Thatcher later expressed her sorrow at his departure from office. Since his resignation in 1982, no other member of the House of Lords has held any of the four Great Offices of State. As NATO Secretary-General, Lord Carrington had helped to prevent a war between Greece and Turkey during the 1987 Aegean crisis, urging Greece and Turkey to avoid the use of force and offering to act as a mediator. He had been awarded the Military Cross and many honorary doctorates, including (in 2003) an honorary degree of Doctor of Civil Laws from the University of Oxford. Lord Carrington lived in the Manor House in the village of Bledlow and he had served as a Deputy Lieutenant for the County of Buckingham. He was a Patron of the church. The late Lord Carrington was a statesman of the first order. His principled acceptance of collective responsibility for the failures of the department of state of which he was then the head, and his consequent decision to resign as Foreign Secretary over the Argentine invasion of the Falkland Islands, is generally regarded as an inspirational model of integrity in public life and as an example to others in public service. By any measure, the test of exceptionality is more than satisfied. When worshippers in, and visitors to, the church view Lord Carrington's heraldic banners, they should feel inspired that a local person should have achieved so much in life, having served his country so selflessly, and having behaved with such integrity.

12. Turning to the *Duffield* questions, the court agrees with the DAC's assessment that the installation of the two heraldic banners will not harm the significance of the church as a building of special architectural or historic interest. As the DAC has noted, in principle the introduction of the banners is reversible. In practice, however, once they have been installed it is unlikely that the banners will ever be removed from the church. The court should therefore approach this application on the basis that the banners will become a permanent feature of the west end of the nave. Even on that footing, however, the court is satisfied that they will cause no harm to the significance of this Grade I listed church. When looking west from the chancel the banners will have little visual impact. They will be mounted sufficiently high that they will not obscure the view of the nave arch or the clerestory windows. Their physical impact will be minimal: four bolts will secure the two poles into the wall. There are said to be no historic wall paintings in this location so none will be disturbed; but the condition imposed on this faculty will ensure that this is the case. The new poles will be made of wrought iron, they will be black in colour and they will be of the minimal size required to support the banners. The DAC did not consider the banners to have a pleasing design, in keeping with the church interior. However, the banners have previously been displayed at St Paul's Cathedral, London and St George's Chapel, Windsor; and it is not the intrinsic design of the banners, but their association with the late Lord Carrington, that gives them their significance.

13. The court is satisfied that that the petitioner has made out a sufficiently good reason to overcome the ordinary presumption against any change to a church building and in favour of keeping things as they stand. For the reasons set out in paragraph 11 of this judgement, it is appropriate that Lord Carrington's life, and his association with the church and the local community, should be commemorated in this way in this church building. The court will grant a faculty as sought subject to the condition that the petitioner (or the PCC) is to satisfy officers of the DAC that no fragments of medieval or Reformation wall paintings or fragments of medieval plaster will be affected by the hanging of the banners (with power to refer the matter back to the court in the event of any disagreement).

The Worshipful Chancellor Hodge QC

11 March 2020

The GCMG Banner



The Garter Banner

