

**IN THE CONSISTORY COURT OF THE DIOCESE OF EXETER**

**In the matter of Bampton: St Michael and All Angels**

**Application reference: 2018-025553**

**JUDGMENT**

1. The medieval church of St Michael and All Angels in the North Devon town of Bampton, which is listed as Grade 1, was extensively rebuilt and enlarged in the 15<sup>th</sup> century. Subsequent alterations and additions were apparently removed during an extended period of repair and renovation in the 19<sup>th</sup> century culminating in a major restoration project in 1896 which included the removal of plaster from the internal walls to reveal the underlying masonry. 20<sup>th</sup> and 21<sup>st</sup> century work has concentrated upon re-presenting late medieval elements within the church in a more coherent manner. The overall result is described in a comprehensive report compiled in 2013 in support of the present petition by Keystone Historic Building Consultants in these terms:

‘Bampton church in 2013 is combination of a late medieval church incorporating some very high quality late medieval features and the inheritance of its 19th century restorations. This could be said of the vast majority of parish churches of medieval origin in the diocese, but what is distinctive about Bampton is the quality and extent of its late medieval fittings. These are incomplete or fragmentary, but taken together represent more, and of a higher quality than is often to be found in Devon’s parish churches.’

2. Keystone state that enough survives of the 15<sup>th</sup> century church to demonstrate that it was richly and expensively furnished. Of particular note are features connected with the Bouchier family (Earls of Bath), including some ‘exquisitely carved’ panels which are now in the chancel.
3. In, or about, 1815 a substantial reredos was installed immediately in front of the East window. The reredos is primarily divided into three equal sections, separated by carved semi-pillars. The section to the left is subdivided into two boards of text, one contains the Lord’s Prayer and the second sets out the first four of the Ten Commandments. On the right there are again two boards of text, one displays the remaining Commandments and the final one has the Apostles’ Creed. The central section of the reredos is of a different configuration with a sizeable painting of Christ on the way to Calvary. It is the work of a

local, but nationally acclaimed, artist, Richard Cosway (born 1742 at Oakwood, Devon). Below the painting there is a short biblical text. The reredos is finished in dark veneer. The upper section is crowned by a central gable framework. The structure is substantial and, when in situ, its height hides  $\frac{3}{4}$  of the plain glazed East window, the upper quarter of which can be seen above the top of the reredos and through the centre of the gable frame.

4. In 2012 a Faculty was granted to the church permitting the temporary removal of the reredos so that essential maintenance and repair work could be carried out to the East end of the Chancel. Whilst it was no doubt anticipated that the removal of the reredos would increase the amount of light entering through the East window, the degree to which this was so was apparently both surprising and very welcome to the parishioners. A further surprise was the discovery that the late 19<sup>th</sup> century scraping away of plaster from the walls had not extended to those protected by the reredos. The plasterwork that was thus revealed was seen to include some fragments of medieval wall painting.

### **The Petition and the Court proceedings**

5. By a Petition issued in April 2021 the vicar and churchwardens of St Michael's church have applied for a Faculty permitting the reredos to be permanently removed from its original position in front of the East window and relocated to hang above the doorway in the centre of the West wall. In addition permission is sought to replaster the East wall of the Chancel. Although nearly a decade has passed between the 'temporary' removal of the reredos in 2012 and the 2021 Petition, from the earliest stage after removal the parish have been united in seeking its relocation. Time was taken in commissioning a thorough assessment of the significance of the reredos within this church, and then consulting with the DAC and relevant heritage bodies on a range of alternative locations.
6. The proposal to relocate the reredos is 'not recommended' by the Exeter Diocesan Advisory Committee ['the DAC'], and it is either 'not supported' or opposed by Historic England ['HE'], the Georgian Society ['GS'] and the Church Buildings Council ['CBC']. The Society for the Protection of Ancient Buildings and the Victorian Society were consulted but chose not to comment.
7. HE, the GS and the CBC each declined the opportunity to be joined formally as parties opponent to the Petition, on the basis that their detailed written observations would be taken into account by the Court.

8. None of those involved sought an oral hearing. Consequently the application has been decided on the basis of the written submissions that have been made, and without formal evidence being given in statement form or orally.
  9. On the 14<sup>th</sup> October 2022 I undertook a visit to the church for the purpose of gaining a better understanding of the issues by seeing the reredos and the church interior, and by allowing the interested parties in attendance to draw my attention to matters relevant to their respective positions. I am very grateful to the Registrar and to the parish for arranging the visit, and to those who attended. During the course of an hour I was able to examine each of the relevant physical features and, more importantly, for the arguments for and against the alternative proposals to be rehearsed in the course of a rolling, informal, but informative, discourse.
  10. Those in attendance on the 14<sup>th</sup> October were:
    - The Venerable Andrew Beane (Archdeacon of Exeter),
    - Frederick Leach, Vice-Chairman, PCC
    - Anthony Mount, Churchwarden
    - Susan Leach, Churchwarden
    - Ben Barrett, PCC Treasurer
    - Dr Andy Macdonald, Heritage Centre
    - Judi Thomas, Heritage Centre
- DAC:
- Stuart Blaylock, Joint Committee Nominee DAC
  - John Scott, Architect Member, DAC
  - Nigel Pratt, DAC Secretary
  - Hugh Harrison, DAC timber expert

11. The church visit very clearly demonstrated the firmly held opinions on each side of the debate as to the future of the reredos. On the one hand, it is argued that, before its temporary removal, this was a fine, and now rare, example of a Georgian reredos in its original location, centre stage, dominating the East End of the church. There are said to be strong and clear heritage factors in support of its reinstatement in that location. On the other hand, one only has to stand in the church to experience the influx of light through the East window and see the chancel returned to a state of medieval simplicity. During the visit I was impressed by the strength and the apparent soundness of the argument on each side. Before descending to the detailed arguments, it is helpful to establish the approach that this court must take, as a matter of law, in determining the application.

## The Legal Context

12. Following the decision of the Court of Arches in *Re Alkmund, Duffield* [2013] Fam 158 at paragraph 87, Consistory Courts are required to analyse the issues within the following framework:

- a. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest? If so,
- b. How serious would the harm be?
- c. How clear and convincing is the justification for carrying out the proposals?
- d. Will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm?

13. In *St John the Baptist, Bishop Monkton* [2021] ECC Lee 7, Chancellor Mark Hill KC helpfully described the *Duffield* framework as providing:

‘a convenient formula for navigating what lies at the core of considering alterations to listed places of worship, namely **a heavy presumption against change and a burden of proof which lies on petitioners with its exacting evidential threshold.**’ [emphasis added]

14. In the context of St Michael’s Bampton, the final caveat to paragraph 87 of *Duffield* is also plainly relevant:

‘In answering question [(d)], the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade I or 2\*, **where serious harm should only exceptionally be allowed.**’ [emphasis added]

15. Again, at paragraph 90 of *Duffield*, the Court of Arches explained the approach in the case of a Grade 1 building:

‘However, the context is one of a Grade I listed building, so that there is a strong burden of proof on the petitioners as we perform the equivalent of the function which a secular planning authority would under section 16(2) of the [Planning (Listed Buildings and Conservation Areas) Act 1990], of having “special regard to the desirability of preserving the building...or any features of special architectural or historic interest which it possesses”.’

16. Some chancellors, in subsequent decisions, have included the practice of inquiring whether the same, or similar, benefits could be achieved in a manner less harmful to the heritage value of the particular church building concerned [*St Laurence, Combe* [2022] ECC Oxf 5]. This sound practice, which keeps the focus upon proportionality, and which is aligned with the approach in *Duffield*, is one that I, too, will adopt in this case.

**The proposal and the case in favour of relocation**

17. The Petitioners' proposal is for the reredos, which is currently dismantled and stored, to be fully reassembled and then suspended in the centre of the West wall of the church immediately above the West door. They also seek permission to plaster the East wall in such a manner as to preserve the medieval wall painting that has been uncovered by the removal of the reredos.

18. The Statement of Need explains that

‘We need to facilitate worship which is more relevant to 21<sup>st</sup> century understanding. The light coming through the uncovered east window enhances the worship and prayer of those attending services, as well as providing a welcoming chancel area for small services and private prayer. The proposed relocation of the reredos to the west wall will give a clear visual Christian message to visitors to the Heritage Centre, located in the west of the nave.’

The ‘Heritage Centre’ is an information and education resource which has been in operation in the church for 10 years (commencing shortly after the removal of the reredos). In that time it has received some 20,000 visitors. It is considered a success and a project that the parish wish to continue in supporting.

19. The Petitioners have twice consulted the congregation (in 2015 and 2018). On both occasions a substantial response was received with effectively unanimous support for placing the reredos elsewhere in the church. Neither the formal publication of notice of the Petition in February 2022, nor the more general discussion of the issue in the parish over the past decade, has produced any letter or other statement of opposition from parishioners or local residents. The introduction of significantly enhanced light in the East end is said to be a universally welcome development by the church community in Bampton.

20. On the need to consider alternative means by which more light could be introduced into the chancel, if the reredos is returned there, the Statement of Needs rules this out as an option:

‘The DAC suggested improving the lighting in the chancel. This would only add to our electricity bill and is hardly in keeping with the commitment in our Mission Action Plan to reduce our carbon footprint. Our existing lighting was updated a few years ago when all the wiring was replaced. A member of our congregation and her late husband raised the money for this by completing a sponsored walk to Santiago de Compostela. Altering this efficient system would be thoughtless and hurtful.’

21. Inspection of the Cosway painting during the church visit established that, whilst no doubt never a brightly coloured piece given its subject matter, it is now so dark that it is hard to make out more than the basic contours of its subject. An explanation for this is offered in the Statement of Need as follows:

‘The Cosway painting would be reinstated into the reredos from its present position on the west wall of the north aisle, where it was placed when the reredos was taken down. The picture is in dull brown hues and is difficult to discern. It was taken for cleaning about 25 years ago, but unfortunately it seems that the paint was mixed with the varnish on application and as the varnish has gone brown it is impossible to remove it without losing the painting. This method was used by artists for a short period just when this painting was done.’

It is of note that the CBC has indicated that a grant may be available for further cleaning of the picture. During the church visit, DAC representatives suggested that restoration techniques had progressed during the past 25 years and what was not possible in terms of freeing the paint from the effects of the varnish in the past, may now be achievable. The churchwardens did not accept that that was the case, and the question of whether the darkness of the painting could be redeemed must therefore remain an open one for the purposes of this judgment.

22. With respect to the proposal to plaster the East wall, the Statement of Need states:

‘The medieval plasterwork to the right hand side of the east window has been partially conserved, revealing some wall paintings. These may not be significant on a national scale but are highly prized locally. They should be preserved and protected by a suitable covering. The paintings on the north side of the window should also be investigated and preserved for future generations. In addition, we intend to re-plaster with lime plaster the area of the east window above the medieval plasterwork up to the roof and the reveals to the window. This would restore the whole of the east wall to its original medieval design and give a completeness to the whole rather than a piecemeal restoration.’

23. It is right to record that, given the DAC's opposition to the removal of the reredos, the proposal for replastering has not been the subject of detailed recommendations and, if the Faculty is granted, or indeed in any event, this issue needs to be given some further consideration in due course.
24. Under a heading 'why do we need it and why do we need it now?' the Statement of Needs draws the Petitioner's case together:

'The chancel is one of the oldest and most important areas of the church and was revamped in the Victorian era with a new tiled floor and choir stalls; however, it was also one of the darkest and least inviting areas. The temporary removal of the reredos has shown what a tremendous difference can be made with natural lighting from the east window.

The longer opening hours of the church following the introduction of the Heritage Centre has reinforced the requirement for an area for prayer and quiet reflection. This would be amply supplied with a chancel area that is welcoming, well arranged and well finished. Such an area would be ideal for our smaller services, prayer group and other meetings.

Great efforts have been made of recent years to make our church a welcoming place, open to all. Various social events during the week and the incorporation of the Heritage Centre have done much to encourage those who may previously have viewed the church as a rather depressing and unwelcoming place full of sanctimonious and judgemental people. The increased light flooding the church since the removal of the reredos has done much to enhance the welcoming atmosphere in both chancel and nave. Many people, both those attending worship and other visitors, have commented on this.'

25. After noting that St Michael's is now the only church in Bampton and that the congregation is drawn from a wide range of Christian backgrounds, the Statement continues:

'Traditionally the east window of a church, which admits the morning sun, is considered to symbolise God as the Light of the World. We might wonder at an earlier generation which chose to shut out the Light of the World with a wooden reredos. We believe that this is incompatible with a modern outward looking, inclusive, mission centred church. It is inconceivable anyone would want to exclude God's light from our church once again. The power of the symbolism of the flood of light is mentioned in the incumbent's accompanying letter and photograph. The call from light as the central symbol is more applicable and appropriate in this post-modern era than the call from Old Testament law and tradition, which we still wish to hold at the other end of the church if agreed.

There is no other wall space available on which the reredos could be mounted in entirety.

We feel the various objections to repositioning the reredos on the west wall are concerned only with a small part of the architecture of the church, and take no account of the very reason the church is here at all, and that is the worship of God and the spread of the Gospel.’

26. In a letter expressing his ‘full support’ for the Petition, the Archdeacon of Exeter, The Ven Andrew Beane, stated:

‘When the Screen was removed for essential work, there was no intention that it would not be restored. However, once it was dismantled, it was evident that the light flooding into the Medieval Chancel clearly showed the original concept of the Church. Since early times the East Window has been a feature of the liturgical and architectural design of churches, but the Screen has obscured this light for around 200 years!’

...

‘The Church has little or no other Georgian features, and this classical style (rooted in the pagan Roman and Greek style) has been judged inappropriate for such a building. While aesthetic is highly subjective, the Cosway painting showing an agonised, suffering and abused Christ is totally out of keeping with contemporary taste in Anglican religious art. Theologically and missionally, I would question the need to have this image in the liturgical heart of the Church.’

27. The Keystone Report, dated August 2013, provides a detailed expert analysis of the significance of the reredos. Keystone’s account of the history and its helpful, stage-by-stage, description of the screen and its place within this church, and in the wider context of churches in Devon, has been accepted by the DAC and the heritage bodies. It is an impressive document which rightly attracts evidential weight in the process of determining the outcome of this application.

28. The Keystone report, which includes an account of each surviving similar reredos in Devon, observes that classical reredoses are rare in the county and fewer still survive in situ. Examples of four in situ are given (which I have assumed are the only four). Each is different from the other and different again from the Bampton reredos. None of the four examples seems to cause any significant blockage of light.

29. Keystone make the point that medieval wall paintings, once common in Devon, are now also rare and that there is a clear conflict of interest between the wall paintings and the reintroduction of the reredos in that only one or the other can be visible.

30. Under the heading ‘Significance’, Keystone offer their analysis which merits quoting in full here [emphasis as in report]:



‘Significance is assessed here according to the recommendations in English Heritage’s *Conservation Principles, Policies and Guidance, 2008*, divided into ‘material’ (the actual fabric); historical (which many include associations not obvious in the fabric); aesthetic and community. While this can seem a ponderous approach it is useful in encouraging a broad view of significance and distinguishing between aspects of a building or fitting that can be managed by physical conservation and those that cannot. The community’s (or communities’) judgement of significance is included to acknowledge that the heritage is valued in different ways by different people.

### **The Reredos**

The reredos is **materially significant** as a well-designed and executed piece of early 19th-century woodwork. Its relationship with a contemporary painting gives it a particular character: combining imagery with joinery.

The reredos is **historically significant** as a late example of a good quality classical reredos in a county where these are rare, and particularly rare in situ. Apart from the structural repairs, it is the only survivor of the 1806-18 restoration of the church.

The Cosway painting adds to its historic interest, given that Devon-born Cosway has a high national reputation, albeit as a miniaturist rather than as an oil painter and his oil paintings are few.

The reredos is **aesthetically significant** in itself as a handsome and large-scale piece of early 19th century ecclesiastical joinery. Judging from contemporary comments on Cosway’s oil paintings, they may never have been very pleasing to his contemporaries. While aesthetics are highly subjective, it is the opinion of the author of this report that the aesthetic of the Cosway painting seen through 21st century eyes, represents Christ sentimentally, as well as agonised and this is out of keeping with contemporary taste in Anglican religious art.

In context, the aesthetic impact of both reredos and painting are out of step with the overall aesthetic of the medieval church as a whole and **detrimental to the significance** of the interior. The scale of the reredos impacts on the light levels in the chancel and on the presentation of the medieval chancel elements: the form of its windows; the medieval stoup and the Bouchier tomb remains. The shortage of light in the chancel is exacerbated by the unplastered walls.

As far as Keystone has been able to judge **community significance** from comments by parishioners on three visits to the church (by Jo Cox and Dr Anita Travers), there are strong and widely-shared feelings that the appearance of the church and opportunities for better-using the chancel would be vastly improved by not re-erecting the reredos across the E window. Parishioners were very fluent in their reasons for wanting to retain the light levels in the chancel revealed by the removal of the reredos: ‘Bampton isn’t the place for a ‘dim religious light’. One member of the congregation said that she found not only the scale but also the character of the reredos oppressive: ‘too many ‘thou shalt nots’. They were also candid in stating that there were some members of the congregation who would prefer to see the reredos reinstated. Anecdotal evidence is clearly no substitute for

a more scientific consultation on the future of the chancel and we understand that once the PCC is clearer about the options open to them, they intend to present these to a wide range of people and carefully consider the results of the consultation to ensure that there is as much of a consensus as there ever can be on making changes.’

31. The conclusion of the Keystone report, which flows logically from its analysis, is:

‘In the opinion of Keystone the reredos should be kept in the church as a rare surviving example of a timber classical reredos. However, there is a very strong case for re-siting it and replacing its prominence with a re-emphasis on the medieval history and aesthetic of the Church of St Michael.’

The report also strongly recommends that, whatever the future of the reredos, thought is given to replastering the chancel, and not just the East end, so as to reverse the perceived negative impact of the 19<sup>th</sup> century plaster ‘scrape’ of the church walls. The report notes that the church has done much in the last 100 years to make more of its ‘fine medieval fixtures and fittings’ visible and legible, and advises that replastering would enhance this work.

#### **The case in favour of reinstatement of the reredos in the Chancel**

32. The Exeter DAC does not recommend the Petitioners’ proposal in this case for the following reasons:

1. The reredos under consideration is not only a high quality item of early nineteenth century joinery, but is also very rare in Devon. It is a particularly unusual survival in a church where the later nineteenth century restoration was so comprehensive.

2. The justification for moving the reredos relates purely to the light entering the chancel and there is no practical or special reasoning behind the application as it stands relating to the use of the space. In the DAC's earlier advice, re-plastering of the walls and updating the lighting had been recommended in order to create a lighter, brighter space (with the reredos returned to the east wall), but this has been rejected by the PCC wholeheartedly. The committee remain of the view that the space would be better enhanced by other means, and this could also include cleaning and conservation of the reredos itself, which may well attract grant funding.

3. Whilst the committee were not in support of moving the reredos from the east wall, equally they were not convinced that the proposal to place the reredos on the west wall was a satisfactory solution.

4. The high levels of backlight that are now provided by the unobscured window almost completely hide any activity at the high altar at certain times of the day, and this diminishes the quality of the space and counts against the proposal to remove the reredos.’

33. During the church visit DAC members drew attention to the impact that removing the plaster from the Chancel walls will have had on the degree of light in the area, if the plaster were restored and lighting improved then there would be significantly more light in that area. The rarity of having a reredos of this quality in situ in a church in Devon was stressed. Bampton, like many churches, has layer upon layer of history demonstrated in its architecture. The reredos is one such layer and it was considered to be a sufficiently important one to have survived the 19<sup>th</sup> century renovations in the church. The DAC members stressed that the reredos was an important architectural element within this Grade 1 listed building.
34. Hugh Harrison, whose opinion on matters related to woodwork and timber in Devon churches commands the highest respect, stressed the importance of the reredos as being ‘unique’ in Devon. It is in good condition, is well made and is unique for incorporating a picture. In Mr Harrison’s opinion, it forms an important part of the church. He too considered that with plastered walls and good modern lighting, the lighting in the Chancel would not be diminished by replacing the reredos in position.
35. In its initial response in 2013, the GS pointed to the fact that the reredos was expressly mentioned in the listed building citation and by Pevsner. The GS considered that the reredos formed an important architectural and historical element within the church. The various texts on the decalogue boards are of importance in terms of the history of Anglican worship. In a later response, in 2018, the GS advised that the position of the reredos on the East wall was fundamental in understanding the liturgical history of the church. In particular the GS states:
- ‘Following the Reformation Decalogue boards were displayed in all parish churches to demonstrate the true essentials of Protestantism and to show the legal powers of the state over the sacramental powers of the church. They were positioned at the east end of the chancel where the altar had formerly been and remained there until the nineteenth century following the influence of The Oxford Movement, when they were removed and demolished, or relocated. Consequently, the positioning of the reredos in front of the east end window at St Michael and All Angels is rare and very important to the historic significance of the church and its place in religious history.’
36. The CBC’s response to the present proposals was made in 2021 in these terms:
- ‘The report from Keystone clearly establishes that the reredos is of very high significance and is unusual for a Devon church. The painting by Cosway, which forms part of the reredos is also a rare example of a religious painting by a renowned artist made specifically for the church.’

The Council is sympathetic to the PCC's desire to allow more light into the chancel. However, the Council does not consider the proposed new location for the reredos to be commensurate with its significance. Several options for improving the light levels in the Chancel have been suggested to the PCC which the Council considers would cause less harm to the significance of the church than relocating the reredos.

A reredos is defined as a screen or decoration placed behind the altar in a church, and is designed to be read from ground level. By removing it from its position behind the altar, the reredos loses its function and context, which would be detrimental to its significance. The proposed location on the west wall is not considered to be an appropriate place for a reredos, particularly one of such high significance. At the height proposed, it will not be easily legible and will not be a focus for worship.'

The CBC repeats its advice that an up to date conservation report on the Conway painting may indicate that there is a prospect for restoration for which there may be grant funding. The CBC also advises that sensitive modern lighting should improve the light in the Chancel.

37. In its initial response to the present proposals, in February 2021, HE described the 'significance of the building' in these terms:

'The Church of St Michael and All Saints is an imposing building which occupies a dominant position in the town. It spans many centuries, with the earliest fabric surviving in the tower and the south wall followed by the chancel, whilst the main body of the church dates from a fifteenth century rebuild. From that Perpendicular period some of its most interesting internal fittings survive, including the ornately carved timber rood screen and pulpit. Their quality is matched by the stone carving in the decorative arcade capitals and the exquisite carved stone panels set on the north side of the chancel.'

The HE response then focuses on the significance of the reredos within the building:

'All the heritage specialists seem agreed upon the intrinsic architectural and historic interest of the reredos, and the fact that it is a relatively unusual survival in situ. As a feature of considerable interest, we consider that it is one of the elements that contributed to the church being listed at such a high grade.'

38. Having noted the descriptions of the quality of the workmanship and the, comparatively, late date of the reredos, HE focused on the single issue that seemingly divided the parties:

'The differences of opinion on the significance of the reredos seem to rest on its **aesthetic qualities**, and how they contribute to, or detract from, the overall architectural integrity and appearance of the church interior. It is now the sole identifiable surviving feature of the early nineteenth century church restoration.' [emphasis added]

HE did not consider that the fact that the reredos dates from a period that is different from any remaining interior feature of the church (being medieval or Victorian) was a reason in itself for removing it from its central position.

39. HE advised that it is not unusual for medieval buildings that have been in continuous use to display evidence of later changes. Removal of such later developments to uncover or return to original features may not be justified even where ‘such an alteration reveal[s] an earlier feature of interest, it could be regarded as diminishing the overall cultural value of the building when the later feature is removed or reused in a way which is out of its intended architectural or historical context’. In the present case, HE did not consider that the value of the medieval wall paintings that have been discovered provides an overwhelming case for the removal of the reredos.

40. HE’s primary conclusion is expressed in these terms:

‘In our view, the quality of the reredos, and the fact that it was designed for its location at the east end of the church, and is a rare in situ survival, outweigh the arguments for its removal on aesthetic grounds. The option being put forward of its relocation to the west wall of the church goes against the arguments being made for it conflicting with the character and aesthetic of the church. Whilst such a position would allow it to be kept intact, its suspension on the wall above the tower arch would appear quite incongruous and confuse future understanding of its original function.’

41. The HE response concludes by accepting that there is a widespread view amongst parishioners that the benefits gained by the opening up of the East end window are to be preferred to the prospect of returning the reredos to its original location, but HE observes that it is difficult to prove that such a return would actually deter people from attending the church.

42. HE’s overall conclusion is, therefore, that the proposed relocation of the reredos would ‘result in clear harm to the architectural significance of the church’. In the context of the *Duffield* framework, that conclusion is of obvious importance and relevance.

### **Discussion**

43. The first *Duffield* consideration is whether the permanent relocation of the reredos to the West wall result in harm to the significance of the church as a building of special architectural or historic interest.

44. It is important to note that the focus of the evaluation of significance is the church building as a whole, and not the reredos itself. The Grade 1 listing means that it is a given that St Michael's is a building of exceptional architectural and historical interest. The question for the court is whether the relocation of the reredos will cause harm to the significance of the special architectural and/or historic interest of the building.
45. In architectural terms the Keystone report [see paragraphs 1 and 2 above] identifies the significance of St Michael's church as a high quality example of a late medieval church. The interior of the church, with which this judgment is concerned, is overwhelmingly medieval in character. The late 19<sup>th</sup> century renovations were aimed at enhancing the medieval features, and that endeavour has been continued in the 20<sup>th</sup> and 21<sup>st</sup> century. The importance of, and interest in, the medieval features of the church is endorsed by HE in its description of the 'significance of the building' (paragraph 37 above).
46. Part of the medieval character of the architecture is the internal space as a whole, which includes the Chancel, the East window (as it was before the introduction of the reredos) and the evidence of wall painting. The Petitioner's point about the importance, in the context of the medieval setting of the interior, of the symbolism of light coming in through the East window is well made. As is the similar point made by the Archdeacon that the influx of light was part of the original concept of this medieval church building.
47. The reredos is the single (surviving) feature within the church from the late Georgian period. Although put in strong terms, the Petitioner's submission that it is 'inconceivable' that anyone would now wish to close off the influx of light raises the question whether the introduction of a new reredos, for the first time, into a similarly fine medieval church would now be contemplated. There is certainly an argument that, in terms of the architecture, the reredos impacts adversely on the overall medieval character of the interior of the church and that argument is strongly supported by the Keystone report which describes the reredos and painting as being out of step with the overall aesthetic of the medieval church as a whole and detrimental to the significance of the interior.
48. The conclusion of the Keystone report on this important point is at odds with that of HE which is that relocation of the reredos would result in clear harm to the architectural significance of the church. In a court process which has not had the benefit of head-to-head engagement by these two sources of expert evidence, it is not possible to tease out the differences in professional opinion that underpin these conflicting opinions. The

approach taken by the Court of Arches in *Duffield* in emphasising the need to look at special architectural interest on the basis of the building as a whole, does, however, strongly favour the approach taken by Keystone which is firmly based on its appraisal that, in architectural terms, this remains essentially a medieval building. The reredos is an architectural feature, but it stands alone as a Georgian introduction into the scheme of the medieval building. Its presence is of *historical* importance, but, in terms of whether a change of location would harm the special architectural interest of the building as a whole, I accept the conclusion of the Keystone report and find that there will be no such harm and, indeed, a change of location would be of overall benefit in the context of special architectural interest.

49. The special historical interest of St Michael's is, again, in part, that the building is evidence of a rich and thriving medieval community at Bampton. In addition, as with many churches that have been in use consistently down the centuries, the building demonstrates changes made in later periods of history. Of these, the late Georgian reredos is the most prominent and significant evidence of historical change in the building. The GS rightly emphasises the historical importance of decalogue boards as marking the radical change of direction that was brought about by the Reformation. This reredos is a late example, and of interest for that reason and for the fact that it is a rare survivor of the impact the Oxford Movement which swept many such boards away in other churches.
50. The historical significance of the reredos is described as 'very high' [CBC], or 'rare and very important' [GS] or being 'of considerable interest' [HE]. Separately, and in addition, this reredos is well made and has been maintained in good condition. It is, in short, a fine, and now rare, example of its kind. The fact that, unusually, it contains a painting further adds to the level of interest that it attracts. Its rarity is significantly enhanced by the fact that it remained in its intended location within the church for over 200 years.
51. Turning to the first *Duffield* question with those various elements in full focus, would the proposal to relocate the reredos to the West wall result in harm to the significance of the church as a building of special architectural or historic interest?
52. The reredos is a piece on its own, and does not form part of a larger late Georgian installation or suite of furnishings. Removing it from the Chancel will not break up or compromise other architectural features. In the context of the overall strong medieval character of the building as a whole, relocating the reredos is likely to be of architectural benefit rather than a detriment. There is a binary choice to be made between maintaining

the reredos in situ, and having the full benefit of the East window with the medieval wall paintings open to view. Architecturally, the latter option will enhance the special architectural interest of this medieval building and will maintain the original symmetry between the East end and the remainder of the church which has been rediscovered by the temporary removal of the reredos.

53. In terms of historical interest, relocating the reredos will be detrimental to some degree. A reredos, by definition, is to be found behind the altar, prominently positioned so that all those worshipping can read, and be confronted by, the text that it displays. That is what a reredos does, and that is the position, historically, that it is intended to occupy.
54. The answer to the first question is therefore affirmative in that, whilst there will be no harm to the special architectural interest in the building, there will be some harm in terms of special historical interest.
55. The second question involves evaluating how serious the harm will be. In this context, it is both relevant and important that the reredos is to remain intact and on display within the church. The change relates only to its location. The change of location will be of significance, for the reasons that have just been spelled out, but when evaluating the degree of harm it is of a lesser degree than a proposal to break up the piece or to remove it entirely from the building.
56. Evaluating the degree of harm occasioned by relocation is a complicated task as it must accommodate the finding that a move will, on the one hand, enhance the architectural interest in the building, whilst, on the other, cause some degree of detriment to its historical interest. It is not, of course, possible to measure these matters to any degree of precision, but, of the two countervailing findings, I regard the architectural reconnection of the medieval elements within the interior of the church by the unblocking of the East window to be of significantly greater weight than the historical detriment caused by moving the reredos to the West wall. That conclusion takes account of the degree of harm which is, as I have explained, to an extent ameliorated by the fact that the reredos will remain intact and on display in the building.
57. The third question requires consideration of how clear and convincing is the justification for carrying out the proposed relocation. Whilst the DAC is correct that 'no practical or special reasoning' is put forward relating to the use of space in the building, it is not right



to state that the justification for moving the reredos relates purely to the light entering the Chancel. The Keystone report is clear in identifying the very strong case for relocating the reredos in order to re-emphasise the medieval history and architectural aesthetic of the church, as the reredos in its original location is detrimental to the significance of the overall aesthetic of the medieval church as a whole.

58. The removal of the reredos has significantly increased the flow of light into the Chancel and this is part of the justification relied upon in the Statement of Need as it is seen as a welcome feature and has enhanced the experience of those attending worship and prayer in the East end of the church. It is obviously the case, although no evidence (for example a detailed lighting scheme) has been submitted, that modern lighting could be introduced into the Chancel if the reredos is returned there. The petitioners' reasons for dismissing the DAC's suggestions in this regard, whilst understandable, are not of real weight. It is clearly the case, as advised by the DAC, CBC and EH, that the introduction of a modern lighting scheme would enhance the relative darkness of the Chancel if the reredos is reintroduced. This finding may be of relevance when considering the issue of proportionality within the fourth question.
59. A further element within the overall justification that is put forward for this change is that the medieval plasterwork and evidence of wall painting will be displayed. Whilst those objecting are correct in tempering the weight to be attached to this aspect by pointing out that the areas of painting are neither extensive nor complete, this newly discovered link to the building's history is said to be highly prized locally. In a building which has otherwise become disconnected from its past wallcovering by the removal of the medieval plasterwork, these small areas are of some value. The proposal is for plaster to be restored to the whole of the East wall, so as to give a completeness to the original medieval design of the whole building. That proposal would enhance the value of the individual medieval fabric which has been uncovered and this is a factor, within the overall justification, which has some weight. It is not a reason in itself for relocating the reredos, but it adds support to the proposal for doing so.
60. The petitioners also rely upon the almost unanimous views of parishioners and of those who run the Heritage Centre, that the removal of the reredos has been a welcome development and that it should be relocated elsewhere in the church. Whilst HE are correct that there is no evidence that, were the reredos to be put back in its rightful location, there

would be a falling off in church attendance, that does not take away from the fact that, on an issue of aesthetics, the local community are strongly against that option. The strength of local feeling, aside from being a factor on its own, is also evidence of the weight to be attached to the degree to which the experience of using the building has been enhanced by the influx of light at the East end. This point is well made in the section of the Statement of Needs headed 'why do we need it and why do we need it now'.

61. Separately, the pastoral argument contained in the Statement of Needs (see paragraph 24 above), which is supported and further evidenced by the letters submitted by the Archdeacon and the Rector, must also be given some weight in favour of justifying the change.
62. Each of the separate components of the case for justification that I have identified, when taken together, do establish a clear and convincing case for change. Whilst differing degrees of weight attach to each, it is right to record that I have throughout my consideration of this application been impressed by the quality of the Keystone report, which is a careful and seemingly very thorough evaluation of the issues from a heritage perspective, and which concludes that there is 'a very strong' heritage case for re-siting the reredos. That conclusion, which, for the reasons that are well argued in the body of the report, I accept is at the front and centre of the case on justification.
63. Before moving to the fourth question, it is right to record that I have been troubled by the clear difference that exists between the heritage perspective provided by Keystone and that put forward by the DAC and the other heritage bodies. This difference has not been investigated in any way, and it would be wrong for me to venture anything more than a tentative conclusion on this point. It does, however, appear to be the case on the written submissions that have been made that the DAC and the heritage bodies have focussed their attention upon the significance of the reredos, and the proposal to remove it from its rightful and historically established position, whereas the proper focus for the court must be upon the overall context of the building as a building of special architectural and/or historical interest. The Keystone report has brought this latter, as I find correct, perspective to its evaluation, in contrast to that apparently deployed by the DAC and heritage bodies. Thus, whilst it is the case that all that the DAC (particularly Hugh Harrison) and the heritage bodies say about the significance of the reredos is fully accepted by this court, and is not challenged by the petitioners, at the end of the day it is the

significance of the building as a whole, with the reredos as a significant element within it, that must be the court's focus.

64. When considering the fourth question, the court must determine whether the public benefit resulting from relocation (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm. It is at this stage that the need for the petitioners to discharge the burden of proof that is upon them to dislodge the 'heavy presumption against change' must be to the fore and the court must ensure that 'serious harm' to a Grade 1 listed building should only be exceptionally allowed. This is an exercise in assessing proportionality, where the scales in favour of the status quo are heavily weighted where the proposed change will cause serious harm to the special architectural and/or historical interest of the church.
65. Within the proportionality evaluation, consideration should be given to any alternative, less intrusive, alteration which may meet the need for change; in this context that is the proposal for the introduction of modern lighting.
66. For the reasons that I have already set out, I consider that the evidence before the court does not establish that relocating the reredos will cause harm to the special architectural interest of this essentially medieval building. Indeed, the finding is that relocating the reredos will benefit the special architectural interest in this essentially medieval building, by reuniting the East wall and window (together with the modest area of medieval painting) with the remainder of the church.
67. The reredos is, on its own terms, a significant and important historical artefact. It is rare for one still to be found in a Devon church, and rarer still for it to be in its theologically and historically correct location at the East end. It is a work of quality craftsmanship and is in good condition. Whilst the quality of the Cosway picture has apparently been compromised by the method of mixing varnish with paint, I accept that it may be possible to reverse this process with modern methods. The reredos is, in any event, unique because it includes a painting. The reredos is to be seen as an important element within the overall building as being one of special historical interest. Part of that importance is its historical location and a move from that location will cause some harm to the historical 'story' of the building.

68. Taken together, the arguments put forward to justify the relocation are strong. The principle justification, as I have found, is the heritage case as put forward by Keystone for restoring medieval continuity, in architectural terms, within the building as a whole. It is supported by the other, soundly made, more general points put forward by the petitioners and those who use the building. The wording of the fourth question encourages the court to look more widely at factors outside those of architecture and history and contemplate the impact, if any, on the way that the building will be used in the present time. In this regard, the DAC is correct in pointing out that the proposed change does not enable the church to be used in a different manner or make some other practical change to the fabric. These wider points are not therefore so prominent in this case as they may be in others. It is, however, a feature of St Michael's that the Heritage Centre has drawn some 2,000 or so people each year into the church building since its inception. Signs in the vicinity point tourists and visitors to the town to the 'Heritage Centre', or 'visitor centre', without reference to the church. The point made about providing a brighter and more welcoming environment (which I find is the case after the removal of the screen) is of some real weight in terms of opportunities for mission or putting the church to other viable uses by making a connection with individuals who might not otherwise visit a church.
69. As I have indicated, consideration is to be given to the alternative of enhancing the provision of light in the Chancel by artificial means if the reredos remains in its proper location. No details have been provided, but I have accepted that this must be achievable and that the petitioners' counter-arguments are of little weight on this point. This factor, however, only comes into play as a method of ameliorating the impact of the reredos if returning it to the East wall is required after evaluation of the principal elements in the overall balance.

### **Conclusion**

70. Determining the issues raised by this Petition has not been an easy task. This court must, and readily does, afford great respect to considered professional opinions from the relevant heritage bodies, the CBC and the DAC. When significant change is proposed to a Grade 1 listed building, the heritage case attracts very substantial weight and, as I have described, the approach in law establishes a strong default position in favour of there being no change. Over the nearly two decades that I have been Chancellor, I have been readily accustomed to relying upon and accepting the considered views of the Exeter DAC, whose

recommendations are only reached after careful consideration over an extended period of engagement with a parish and its proposals for change. I have only very rarely disagreed with a DAC recommendation, and I have only considered doing so in the present case after a great deal of thought and consideration of the detailed evidence before the court.

71. When the evidence before the court is considered alongside the clarification of the judicial task that has been provided by the *Duffield* decision, I have concluded, for the reasons already set out, that the analysis provided by the Keystone report is correct in identifying that the special architectural and/or historical interest in this Grade 1 listed building is its well-preserved and noteworthy medieval interior. If it is not returned the reredos will lose its historical function and context and this will result in some harm to the special historical interest of the building as a whole. That detriment must, however, be balanced against the architectural and historical benefit of re-establishing the East wall and window within the medieval interior.
72. The division of the individual questions within the *Duffield* formulation does not neatly fit a case such as the present where the heritage issues relating to ‘harm’ in question 1 pull in countervailing directions. It is more relevant here to consider questions 1 and 2 together.
73. For the reasons that I have given, I have concluded that, whilst there will be some harm to the special historical interest in St Michael’s church if the reredos is not returned to the East wall, but is displayed intact on the West wall, that harm is significantly outweighed by the benefit to the special architectural and historical interest in the building that has followed from the removal of the reredos from its historical position so that the East end of the church now takes its place as part of the unified medieval scheme within the whole of the interior. Thus, if a single, binary, answer has to be given to question 1 it would be that the proposal is one that will be of benefit, in terms of special architectural and/or historical interest, rather than a cause of harm.
74. If, on the other hand, question 1 is answered so as to focus solely on the harm, in historical terms, that will be caused by not replacing the reredos in the East end, I regard that harm as noteworthy and I accept the case of the heritage bodies that, in the words of the CBC, if relocated the reredos loses its historical context and function. Question 2 is not limited to the evaluation of harm by focusing upon one or other element within the building. The court must evaluate ‘how serious would the harm be’ to ‘the significance of the church as

a building of special architectural or historic interest'. Thus, again for the reasons that I have given, if a route through question 1 to question 2 is followed, and the harm to the building as a whole is considered, the answer is the same that the proposal will, overall, be of benefit rather than harm.

75. Those conclusions are sufficient to decide the issue in favour of granting permission to relocate the reredos, but, for completeness, and, again, for the reasons that have already been given, a clear and convincing case for change has been made out. This is primarily on heritage grounds on the basis described by Keystone, but that case is strongly supported by the wider pastoral and community factors that have been identified with the result that the public benefit plainly outweighs the harm caused by moving the reredos from its proper location and context.
76. It follows that I find that the petitioners have discharged the burden of proof that is upon them and have met the heavy presumption against change. I have not found that the proposal will cause 'serious harm' to this Grade 1 listed building and there is, thus, no requirement to consider exceptionality.

#### **Next steps: important matters of detail**

77. The decision made in this judgment does not determine whether the Petition is to be granted. It has been agreed by all concerned that this judgment will determine the principal issue of whether the reredos is to be returned to the East wall. The central assumption that has been made is that the reredos can be displayed, intact, on the West wall above the central doorway as illustrated in a mock-up picture prepared in support of the Petition. No details have been provided for this aspect of the proposal. Following the decision that has now been made on relocation, it is necessary for the petitioners to supply a detailed scheme for the hanging of the reredos at the West end, including details of how this sizeable structure is to be attached to the wall. I would encourage early discussion between the petitioners and the relevant DAC representatives in order to prepare a detailed scheme which can then be the subject of consultation.
78. In like manner, the proposal to conserve, renovate and restore plaster on the East wall must be developed and submitted for consultation.

79. It is necessary to stress the importance of timing in what is now to take place. Some 10 years have elapsed since the reredos was first removed. Now that the decision in principal has been taken, the parish and the petitioners should not entertain any thought that the matter is somehow concluded and that the timescale for moving the reredos is within their control. The decision in principal has been taken on the express basis that the reredos can be and will be relocated on the West wall. If, for whatever reason, that turns out not to be possible then the issue of relocation will require reconsideration and, in the end, the Faculty for relocation may not be granted. The burden of establishing this second part of their application remains, and it is therefore important for the petitioners now to make good their case by providing a viable and acceptable scheme for rehanging the reredos and for the plasterwork on the East wall.
80. I propose to direct that a detailed scheme for the rehanging and a detailed scheme for the East end plaster work are to be submitted to the DAC for approval on or before Monday 17<sup>th</sup> July 2023. I will however invite the petitioners to make representations to the Registrar if, having considered that timetable, a longer period is required for good reason.
81. In the event that a tight timetable is not adopted and followed to bring this second phase of the application process to a conclusion, it will be necessary to bring the Petition to a conclusion. If that stage is reached then, in the absence of detailed plans for hanging on the West wall, the only viable option before the court would be to order that the reredos should be returned to its original position in front of the East window. It is important that the petitioners understand that this is the position.

The Rt Hon and Worshipful Sir Andrew McFarlane  
Chancellor of the Diocese of Exeter  
17<sup>th</sup> April 2023