

Neutral Citation Number: [2020] ECC Bla 1

Faculty – Unlisted 1925-6 Austin & Paley Lancashire church – Installation of new stained glass window incorporating a cross with a circle of flowers – PCC fully supportive of proposal – DAC not objecting – CBC critical of design but not becoming party opponent - Faculty Granted

Application Ref: 2020 - 046108

**IN THE CONSISTORY COURT OF
THE DIOCESE OF BLACKBURN**

Date: Monday 13 April 2020

Before:

HIS HONOUR JUDGE HODGE QC, DEPUTY CHANCELLOR

In the matter of:

ALL SAINTS, HESKETH with BECCONSALL

**THE PETITION OF MRS MARY SCAMBLER (Churchwarden) and THE
REVEREND DAVID DICKINSON (Rector)**

Determined on the papers and without a hearing

The following cases are referred to in the Judgment:

Re St Alkmund, Duffield [2013] Fam 158
Re St Gregory, Offchurch [2000] 1 WLR 2471
Re St John, Out Rawcliffe [2017] ECC Bla 11
Re St Margaret, Eartham [1981] 1 WLR 1129
Re St Mary, Longstock [2006] 1 WLR 259
Re St Mary the Virgin, North Aston [2020] ECC Oxf 3

JUDGMENT

1 In *Re St John, Out Rawcliffe* [2017] ECC Bla 11 Chancellor Bullimore (in this Court) noted (at paragraph 25) that “all applications for stained glass windows are in my view difficult, and often very sensitive”. This case demonstrates the wisdom of that observation.

Background facts

2 This is an online faculty petition presented on 11 February 2020 by the rector and churchwarden of this small unlisted church in the Archdeaconry of Blackburn (built in 1925-6 to a design by the celebrated Lancastrian architectural practice of Austin & Paley) to install a new stained glass window in an existing three-light window (with bar tracery) in the south wall of the church building in memory of a former parishioner, Mrs Margaret Stringfellow (1927-2018). The new window has been designed by Mr Daniel Burke of Lightworks Stained Glass Limited of Clitheroe (**Lightworks**) and will incorporate full external polycarbonate protection given that instances of intentional vandalism of existing glazing have been an issue affecting this church in the past. The church has been approached by Mrs Stringfellow's grandson, Mr Stuart Wrigley, to install a stained glass window in memory of his late grandmother at his own expense; and the eleven members of the Parochial Church Council (**PCC**) have unanimously agreed and approved the proposal in the belief that this will be for the benefit of the church. The late Mrs Stringfellow had attended church every week, bringing her children, and then her grandsons, to church with her. Mr Wrigley, who now lives abroad, wishes to have the window installed in the church in memory of his late grandmother, for the benefit of future generations and as a witness to her faith. The glass is to be installed in the existing leaded clear glass window nearest to the place where Mrs Stringfellow used to sit each week in the church building. The proposed window has a cross with a circle of her favourite flowers. Mrs Stringfellow had come to Hesketh Bank as a land girl during the Second World War and so green has been chosen as the main colour of the window to represent the fields of Hesketh Bank. The Bible verse (2 Corinthians 5 v 17¹: "Therefore if anyone is in Christ, the new creation has come: the old has gone, the new is here!") has been chosen because it speaks of Christians being made new in Christ, which is only possible because of the death of Jesus Christ upon the Cross. The petitioners have supplied a copy of Lightworks' supporting notes and information which sets out details of their initial design brief, structural details of the existing and proposed new glazing, and details of the proposed design, its colours and iconography, and the types of glass to be used. An image of the design of the proposed new window appears as **Annex 1** to this judgment. An image of the existing window appears as **Annex 2**.

3 At a meeting of the Diocesan Advisory Committee (**DAC**) held on 14 February 2020 the DAC did not object to the proposal being approved by the court (although they did not positively recommend it for approval either). In the opinion of the DAC, the work proposed was not likely to affect the character of the church as a building of special architectural or historic interest. From the minutes of the DAC's next meeting it would appear that the Diocesan Stained Glass Window Consultant had "raised concerns about the design, materials and structure of the proposed installation"; and it is clear from the minutes of the previous meeting, at which the DAC's decision not to object to the proposal had been reached, that the proposal had provoked some discussion within the DAC.

4 Following mandatory consultation, in accordance with rule 9.6(1)(a) of the Faculty Jurisdiction Rules 2015 (**FJR**), the Church Buildings Council (**CBC**) raised the following concerns regarding the design of the proposed stained glass window:

¹ New International Version

- (1) The text is difficult to read across the three lights and currently seems to be in several different sizes of font.
- (2) The small sections of the cross overlapping into the side lights look disjointed.
- (3) The side lights could be tied to the central light more successfully, perhaps by using flowers in the different lights.
- (4) The circle of colours around the floral wreath is incomplete and the colours do not tone well with the colours of the flowers.
- (5) The design seems to try to marry a number of different styles, i.e. a modern cross with more traditionally rendered flowers and italic, traditional script with a more modern sans serif font, all of which are individually attractive but together are not very cohesive.
- (6) The design is quite different from other windows in the church. This is not necessarily a bad thing, but it could either reference the other windows, or be more of a departure from them.

The CBC expressed the hope that their points would initiate a discussion with Lightworks and suggested that “a design evolution”, if available, would be helpful. That hope has proved to be in vain.

5 Lightworks responded to the CBC’s comments within the consultation period as follows:

- (1) The proposed placement of the Bible verse was the result of the direct request of the donor (and client) and was selected by him from a total of five differing text placement options the designer had explored and discussed with the donor. The designer’s original proposal had been for half of the passage to be positioned within the left lancet and half in the right but the donor had been insistent that this made the verse difficult to read and that the designer should use the proposed approach. The font sizes are indeed different throughout the verse as this was a design solution to the following design challenges: (a) The space available is limited and must take account of breaks for the mullions, the central cross and the sacrificial border all of which either could not (or, Lightworks felt, should not) be disrupted. (b) The verse should visually balance within the space as a whole across the three lancets. The designer contends that the verse is readable, that it balances within the available space, and that it also serves to tie the three separate lancets together. Should the DAC agree with the views of the CBC about the placement of the bible verse then, with the agreement of the donor, the designer would be happy to look again at alternatives.
- (2) The designer does not agree that the small sections of the cross overlapping into the side lights look disjointed. The cross is proportionally correct both in and of itself and in relation to the ring of flowers. It sits, and balances, well within the window as a whole and also serves visually to tie the three lancets together.
- (3) The designer maintains that the three lancets are successfully tied together, primarily by the cross and the bible verse, and secondly by the repeated continuation of the horizontal lead and bar lines. The use of additional flowers within the side lancets is an option that was explored and discussed in earlier design drafts but was ultimately rejected

by the donor. Budget constraints also played some part in this. Collectively they did not feel that this decision was in any way to the detriment of the design.

(4) The outer circle was introduced as a later addition to the design as it was felt that it served to draw the viewer's eye further in towards the central ring of flowers, this being a key element. It is positioned where it is (just above the fourth saddle bar) so that it is not intersected or interrupted by that bar. It appears incomplete because the left and right edges of it are effectively hidden behind the mullions. Again, having carefully considered this element, it is felt to add to the design and to sit, and balance, correctly in relation to the cross and the ring of flowers. To remove it would be to the detriment of the design. As regards the colours of the outer circle not toning well with the flowers, whilst this may not have been as well conveyed as it could have been within the design image, it is the intention to use the same glass selection for it as is used for the flowers.

(5) and (6) A huge amount of work is said to have gone into the design concept, including major revision, and amendments along with multiple options presented for the client's consideration in terms of text placement. The resulting final design proposal has not only been unanimously approved and accepted by the late Mrs Stringfellow's family but also by all eleven members of the church's PCC. Both the designer and the family disagree with the CBC's comments about the design not being cohesive.

Lightworks concluded their response by quoting from a letter from Mrs Stringfellow's daughter and two grandsons:

“Commissioning a stained glass window in memory of mum in the church she loved was an exciting project for us as a family. All Saints Church in Hesketh Bank was her life for so many years. Mum came to Hesketh Bank in the land army, met dad and never left! She always worshipped at All Saints from the time she arrived in the village. The church was integral to all our lives and we can't stress how important and integral to her life it was for all her 91 years. She was devoted to her beliefs and when life was difficult for her in illness she never questioned her faith. When we asked Lightworks Stained Glass to design the window we thought long and hard about how we would envisage the memory to mum to be - subtle, simple, sensitive and designed to reflect her way of life, which would fit into the beautiful country church building that All Saints is. As a family we truly believe that Lightworks have perfectly reflected what we wanted and that it truly represents who mum was. She would be proud.”

6 The brief description of the church building in Pevsner's *The Buildings of England – Lancashire: North* (2009) by Clare Hartwell and Nikolaus Pevsner (at page 105) includes a reference to “windows with stylized Perpendicular and Decorated tracery”; but it provides no more detail of the existing windows in the church building. When the petition was first presented to me, I was able to view (in the online faculty system archive) images of other windows in the church building which had been uploaded in support of a previous application to install a new stained glass window in the church (referred to in paragraph 10 below); but several of these images were of poor quality, making it impossible for me to discern details of their design. No information had been provided about the artists for each window, their subject matter, or their location within the church; and I had no details of the total number, or the location, of the existing windows relative to the position of the proposed new stained glass window. Since it was not possible for me to visit the church in person (due to present

Government Covid-19 Coronavirus movement restrictions), I requested the Registry to contact the petitioners and to ask them to upload photographs of all the other windows in the church (with descriptions and a plan showing their location) to the online faculty application system and to obtain a statement from Lightworks explaining how the style and iconography of their design responds to the other windows.

7 On 1 April Mrs Scambler, one of the petitioners, emailed the Registry with images of all the windows in the church, together with brief descriptions and details of their respective locations, as indicated by the numbers shown on a hand-drawn plan. The court is grateful to Mrs Scambler for performing this task at this anxious time. The petitioners' emails, the plan and the images have all been uploaded to the online system. In all, there are 15 windows in the church building (as indicated by numbers on the plan): four in the south wall of the nave (1-2 and 15); four in the Lady Chapel to the south of the chancel, one of which faces west (4), two face south (5 and 6), and one faces east (7); one in the east wall of the chancel behind the reredos and altar (8); five in the north wall of the nave (9-13); and one in the west wall of the tower (14). Proceeding anti-clockwise from the door which leads from the main entrance porch into the south-west of the nave, the windows are:

1. The proposed new window. South-facing in the nave, next to the main entrance. It has three clear glass lights with bar tracery. **(Image 0565)**
2. Next to the proposed window and exactly the same. **(Image 0564)**
3. The last window on the south side of the nave. A two-light stained glass window with bar tracery depicting Saint Ethelburga and Saint Hilda and dedicated 'To The Glory of God, & in memory of Sallie Alty, died 15th May 1927'. **(Image 0580)**
4. A west-facing two-light stained glass window (without tracery) in the entrance to the Lady Chapel installed in 2018 in memory of the Slinger family, farmers from Hesketh Bank, depicting farming scenes with cattle and sheep and Jesus as the Lamb of God and inscribed 'for every beast of the forest is mine, and the cattle on a thousand hills'. **(Image 0567)**
5. A south-facing window in the Lady Chapel. Two rectangular clear glass lights with limited bar tracery. **(Image 0568)**
6. A south-facing window in the Lady Chapel, next to the last one and exactly the same. **(Image 0569)**
7. An east-facing three-light stained glass window with bar tracery in the Lady Chapel depicting (so I am told) a scene from St. Luke ch. 2 v. 36 installed in memory of William Bradshaw (1878-1958) and Elizabeth Bradshaw (1900-1971). **(Image 0570)**
8. An east-facing five-light stained glass window with bar tracery installed in 2002 in memory of Sarah Phyllis Johnson and Jack Johnson and depicting (again so I am told) Christ and the Tree of Jesse, symbols of the Apostles and the Evangelists, and scenes depicting local life and coats of arms and dedicated 'To The Glory of God'. **(Image 0571)**
9. A small one-light rectangular clear glass window (with limited bar tracery) in the chancel facing north, a one-light version of 5 and 6. **(Image 0572)**

10. A two-light stained glass window with bar tracery at the front of the nave, facing north, in memory of James and Anne Taylor, 1961 depicting Christ standing beside three angels with a man lying on the ground and inscribed 'I Am The Resurrection'. **(Image 0573)**
11. A north-facing window in the nave. Three clear glass lights with bar tracery. **(Image 0575)**
12. A north-facing window in the nave, exactly the same as the last one. **(Image 0576)**
13. A small single-light stained glass window (without tracery) on the north side at the rear of the nave in memory of John and Dorothy Ward, dated 1935, and depicting Christ holding a shepherd's crook and lamb. **(Image 0577)**
14. A two-light stained glass memorial window (apparently with plate tracery) in the west tower erected in memory of Ada Amelia Bryon and dated 1930 depicting Christ holding a baby in His arms with a child standing in front of Him and a woman holding a baby with two children standing in front of her and with a cross-shaped light at the top depicting an angel holding the verse: 'Suffer little children to come unto Me'. **(Uploaded separately)**
15. A small single-light stained glass window (without tracery) facing south at the back of the nave in memory of John Ward, Sexton of this Parish, dated 1930 depicting Christ at the open door. Similar in form to 13. **(Image 0579)**

In summary, there are eight existing stained glass windows in the church, four of which can be described as traditional, and four as contemporary, in design. There are seven existing leaded clear glass windows, comprising two three-light windows in the south wall of the nave, two two-light windows facing south in the Lady Chapel, one one-light window in the chancel facing north, and two three-light windows in the north wall of the nave. There is therefore potentially space for only six more stained glass (or memorial) windows if the faculty presently sought is granted.

8 The petitioners have obtained a statement dated 26 March 2020 from Mr Daniel Burke, Artist & Director of Lightworks, detailing how the style and iconography of his design responds to the other windows in the church building, and this statement has also been uploaded to the online faculty system. Addressed: "To whom it may concern" it reads:

"A statement from Lightworks detailing how the style and iconography of their design responds to the other windows

The existing glazing at All Saints, Hesketh Bank consists of a number of figurative windows of the late Victorian/Edwardian period typical in style and quality of the time, alongside several more contemporary windows of the late 20th/early 21st Century. There also remain a number of plain rectangular leaded windows within the nave executed in an antique cathedral glass.

The later period glass differs considerably in style and execution not only from its earlier counterparts but also from each individual example. In my opinion, some are less successful than others in terms of (a) their quality of execution and (b) the way in which they work aesthetically within this comparatively simple building.

The iconography of our proposed window is primarily a response to the specific requests of our client to reflect and remember their relative who (along with countless other members of the parish) have played or continue to play such a pivotal role in not only the church but also the wider community of Hesketh Bank. Aesthetically and stylistically it is relatively unfussy while maintaining a basic, honest strength and it is through this approach we believe our design not only successfully reflects the fundamental architectural principles behind this church as a building, but also the no-nonsense, hard-working, caring, welcoming people who make up its community.

The proposed new commission will sit directly opposite and adjacent to some of the church's remaining plain leaded glazing. As a design which could be considered to grow organically from a similar ground of rectangular quarries, we are confident our new window will harmonise with its immediate neighbours in the church.

To finish, I believe it is worth commenting on the unprecedented times we all now find ourselves in and how our window's design (and hopeful summer completion) could serve to hold an unexpected deeper meaning none of us could possibly have foreseen when we began this journey with our client back in April of last year. With its origins rooted in a celebration of springtime and, by extension, the ideas associated with it - rebirth, rejuvenation, renewal, resurrection and re-growth - on completion it might also now serve as a reminder of what we have collectively endured and overcome during this incredibly testing period."

9 As well as seeking further information from the petitioners and Lightworks, I also invited the Registry to revert to the CBC with Lightworks' original response to the CBC's comments and to inquire whether they would wish to respond further, whether they would want their comments to be treated as formal letters of objection to the grant of a faculty (and, if so, inviting them to treat the Registry's communication as written notice under FJR 10.3) or whether they would merely wish their comments to be taken into consideration by the court. Further to this invitation, the Registry sent an email to the CBC on 25 March 2020; and they followed this up with a further email dated 1 April 2020 enclosing a letter and Form 5 notice and inviting the CBC to become a party opponent to the proceedings. That further email prompted an immediate response from the CBC stating that they do not wish to become a party opponent but they are happy for the comments provided to the DAC at an early stage to be taken into consideration (as I have duly done).

10 The last stained glass window to be introduced into the church (pursuant to a faculty granted by the Chancellor on 23 May 2017 under Reference No 2016-004751) was installed in an existing two-light window (without tracery) in the west-facing wall of the Lady Chapel (No 4 on the location plan). This was also in memory of a local family (the Slingers) and, as they had been farmers, it depicts cattle and sheep, with Jesus as the Lamb of God. On that occasion too the DAC had not objected to the proposal being approved by the court (whilst, again, not positively recommending it for approval). When the CBC were consulted about that application (at the insistence of the Chancellor, as required by rule 9.6 of the FJR) they expressed several concerns about the process and the design whilst stating that they were pleased to see clear religious iconography in the proposed window. The CBC commented that it was unfortunate that no information had been provided about the commissioning process or the brief supplied to the artist for the window, or how the parish had selected the artist and the design. The statement of significance was described as "slight": The CBC noted that images had been provided of other

windows in the church (which, as previously stated, I have consulted in the archive in connection with the instant application) but several of these were stated to be of low quality, making it impossible to discern details, and no information had been provided about the artists or their subject matters. No statement had been provided by the artist of the proposed new window about how the style and iconography responded to the other windows. On that occasion the CBC had concluded:

“Whilst the church is not listed, it is noted that it is the work of the celebrated architects Austin & Paley, and some of the existing stained glass appears to be of good quality. A new stained glass should be an opportunity to contribute positively to the building: our concern is that the proposed design has not been sufficiently carefully considered.”

Despite these concerns, the Chancellor directed the issue of a faculty (subject to a condition as to the wording of the proposed text from the scriptures). An image of this window appears as **Annex 3** to this Judgment.

11 Since no interested person has become a party opponent to these faculty proceedings, the court proceeds without a hearing. In reaching its decision on this faculty application, the court has taken full account of all that has been said by the petitioners in support of the petition, the comments provided by the CBC in response to the petition, and also the further information and counter-observations supplied by the petitioners and Lightworks.

The proper approach

12 I considered the proper approach to a faculty application seeking to introduce a new stained glass window into a church building in my recent judgment as Chancellor of the Diocese of Oxford in *Re St Mary the Virgin, North Aston* [2020] ECC Oxf 3. At paragraphs 18 and 19 I set out the series of questions identified by the Court of Arches in the leading case of *Re St Alkmund, Duffield* [2013] Fam 158 at paragraph 87 (as affirmed and clarified in later decisions) and I considered how they should be applied in practice. At paragraph 20 I referred briefly to the discussion of windows at paragraph 13.7.3 of *Mynors: Changing Churches* (2016). At paragraphs 21 to 23 I discussed certain earlier case law authorities, including the decision of Deputy Chancellor Mark Hill (in the Winchester Consistory Court) in *Re St Mary, Longstock* [2006] 1 WLR 259 and the recent decision of Chancellor Bullimore (in this Court) in *Re St. John, Out Ramcliffe* [2017] ECC Bla 11 (to both of which I shall need to return). At paragraph 24 I noted that the authorities seemed to emphasise: (1) the reluctance of Consistory Courts to get drawn into disputes about the fine detail of the design of stained glass windows; (2) the importance of giving due consideration to the views of the PCC and the DAC and other consultative bodies; and also (3) the importance of the appearance of the proposed window itself, together with its effect upon the appearance, and the significance, of the church building as a whole. However, there would seem to me to be a tension between (on the one hand) the first and (on the other) the second and third of these considerations to which I shall need to return later in this judgment. At paragraph 25 of that judgment, I drew attention to the CBC’s web-site which contains useful advice and guidance on introducing new art into churches, guiding the reader through the process of commissioning new art for their church, and pointing out that new art should always be created for a specific place in the church building, and with an understanding of its purpose in supporting people’s faith. I noted that further information was available in the Church Care Guidance Note entitled “New glass for your church” (which is available for download). In the event, I refused to grant the faculty sought in the *North Aston* case. On the

evidence in that case, the court considered that moderate harm would be caused to the significance of the Grade II* listed North Oxfordshire medieval church as a building of special architectural or historic interest by the installation, in the prominent east window of the Lady Chapel of the church, of the particular proposed design of stained glass window; and the court was not satisfied that any clear and convincing justification for carrying out the proposal to install the proposed window had been demonstrated. That case is very different from the present case in two respects: first, because it concerned the introduction of a stained glass window into the prominent east window of the medieval Lady Chapel of a Grade II* listed building; and, secondly, because the petition was one that had been vigorously opposed.

13 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 to install a stained glass window in its 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 (the predecessor of the CBC). Granting the petition, Deputy Chancellor Mark Hill held that as a stained glass window adorned or beautified a church, and comprised part of its fabric, it was not a memorial, and that the test of exceptionality relating to the character or service of the person to be commemorated was not appropriate. Rather, 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 should record her life. The proposed window would not adversely affect the appearance of the church or 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.”

14 In *Re St. John, Out Rawcliffe* [2017] ECC Bla 11 Chancellor Bullimore (in this 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 (who was 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).

15 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 *Re St Margaret, Eartham* [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."

16 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. In such a case, the court's focus should be on the merits of the window itself as an object of beauty and adornment for the church building, and the thoughts and reflections it will evoke and inspire in the observer. The proposed window should be judged upon its own appearance, and its effect upon the appearance, and the significance, of the church as a whole; the court must assess the suitability and the quality of the design, whether it is appropriate to the particular location within the church building, and how it will serve to advance the church's worship and mission, and support the faith of its congregation, and parishioners and visitors to the church. Although a Consistory Court may be reluctant to get drawn into disputes about the fine detail of the design of stained glass windows, it may have little choice where this forms the focus of the opposition (or objection) to a particular petition. Unless the CBC have already been consulted about the proposal and their advice is available to it, the court is required (by FJR 9.6) to seek the CBC's advice where a proposal involves the introduction of an article of special artistic interest; and the fine detail of the design is likely to be the focus of the CBC's comments upon the proposal. If the court is to give due consideration to the views of the CBC, and in any case where there is an objection to the introduction of a new stained glass window founded upon the details of the design, the court will inevitably find itself getting drawn into a dispute about the fine details of the design in order to fulfil its duty to consider the views of the CBC, and to resolve the

objection and determine the petition. The court must also have regard to the implications of granting a faculty for the introduction of a new stained glass window upon similar applications in the future: each new stained glass window that is introduced into a church building inevitably reduces the number of clear glass windows available for stained glass in the future.

Findings, decision and reasons

17 The court is rightly reluctant to get drawn into disputes about the fine detail of the design of any particular stained glass window. However, the court is required to consider the merits of the window itself as an object of beauty and adornment for this church building, and to assess the thoughts and reflections it is likely to evoke and inspire in any observer. The court must judge the design of the proposed window itself, and also its effect on the appearance, and the significance, of the church building as a whole; the court must assess the suitability, and the quality, of the design; whether it is appropriate to the particular location within the church building; and how it will serve to advance the church's worship and mission, and support the faith of its congregation, parishioners and visitors to the church. In doing so, the court must address the critical comments of the CBC as a mandatory consultee and any objections to the grant of the faculty. The court must also have regard to the implications of granting this particular faculty for similar applications in the future: if the court grants a faculty for the installation of this particular stained glass window, there will only be scope for the introduction of a further six new windows in the future. Above all, the court has to bear firmly in mind that it is not being asked to pass any judgment on whether it is appropriate to commemorate, and celebrate, the life, and the devotion to the church, of the late Mrs Stringfellow. Clearly, hers was a life worthy of commemoration and celebration. But this window must be judged as a work of art, and an inspiration to others, and not as if it were a memorial tablet or plaque. As Deputy Chancellor Mark Hill emphasised in *Re St Mary, Longstocke*, this online faculty application "is to be judged on the merits of the proposed window itself".

18 The court is satisfied that there can be no objection to the proposed location of this window within the church building: the introduction of this particular window in the south wall of the nave will not adversely affect any of the existing windows. Nor is the south wall of the nave an inappropriate location for this particular window: It is not to be installed above an altar. However, the court agrees with the criticisms advanced by the DAC about the design of the proposed window (as set out at paragraph 4 above); and although Lightworks have done their very best to address these criticisms, the court is not entirely persuaded by their response. The court considers the design to be bland, and not the sort of strong, vigorous and inspiring contribution that this church deserves if a new stained glass window is to be installed in one of the only four remaining plain glass, three-light windows in this church building. This becomes apparent when one contrasts the design of this window (**Annex 1**) with that of the most recent window to be introduced into the church (**Annex 3**). This proposed window is essentially geometric in design, comprising two concentric circles (one incomplete) interlaid between two crosses. The Christian content is minimal, consisting only of the two overlaid crosses and the Biblical text, which is in several different sizes of font and extends across all three window lights, making it extremely difficult to read. The court agrees with the CBC that the small sections of the cross which overlap into the side lights look disjointed; they give the clear appearance of a design that has been shoe-horned to fit into a window space which, because of the mullions, is unsuited to such a design. As the CBC previously pointed out when consulted about the recently installed two-light window in the west-facing wall of the Lady Chapel, whilst this church

is not listed, it is nevertheless the work of the celebrated Lancaster architects Austin & Paley; and, having viewed the images of them, the court considers that most (if not all) of the existing stained glass windows are of good quality. The four more traditional stained glass designs are all consistent and cohesive. The four more contemporary stained glass windows all seem to the court to represent appropriate departures from the more traditional designs, and to make positive, but contrasting, contributions to the church building. Any new stained glass window should also contribute positively to the church building; but I fear that this proposed design is insipid and uninspiring and will contribute little that is positive to the church, its worship or its mission. If it were to be permitted, the court is concerned that this window will represent something of a lost opportunity and a wasted window space. It is no satisfactory answer to these concerns to say that the design is “primarily a response to the specific requests of our client to reflect and remember their relative”; nor that it is a response to the physical constraints of the existing three-light window space. The court is not being asked to pass judgment upon the person whose life is sought to be commemorated by this window but simply upon the quality of the design of the proposed window itself. When, in the future, the late Mrs Stringfellow is sadly no longer remembered by those still living, this window, if permitted by the court, will remain; and it must be judged by what it will do to raise the spirits of those who view it, and to inspire the faith, the worship and the mission of the church, its congregation and visitors.

19 On the evidence in this case, the court is concerned that some, albeit moderate, harm may be caused to the significance of this fine, albeit unlisted, Austin & Paley church by the installation of this proposed design of stained glass window. Any such harm would have the potential to take two forms: First, the design may detract from, rather than enhancing, the appearance, and the significance, of this church building, and the church’s mission and worship. Secondly, the introduction of this particular stained glass window will undoubtedly involve the loss of one of the remaining seven – and also one of the only four remaining three-light – plain glass windows in the church. It will therefore involve the loss of an opportunity to introduce something different (and better) in its place. However, despite these real concerns, after much anxious, and prayerful, consideration, and not without some hesitation, the court has concluded that it would not be right to characterise the installation of this particular design of stained glass window as harmful to the church. Despite the known concerns of the CBC, and (apparently) the Diocesan Stained Glass Adviser, the DAC were of opinion that the proposed window would not affect the character of the church as a building of special architectural or historic interest, and they did not object to it; and the court should not ignore their views. However fine the church may be as one of the smaller examples of the later work of the Austin & Paley architectural practice, the church is not a listed building. The church already contains a pleasing mixture of traditional and more contemporary stained glass window designs; and this window will only be one of fifteen windows within the church. Lightworks have genuinely sought to address the concerns identified by the CBC even though the latter – and the court – may remain unpersuaded. Even after the introduction of this proposed new window, there will still be scope for a further six new stained glass windows within the church. Whatever the position might have been had this church been listed as a Grade II building or had this been the only remaining plain glass window within the church, the fact is that this is an unlisted church building and there will still be six plain glass windows remaining within the church. The court is also satisfied – even if only just – that a clear and sufficient justification for carrying out the proposal to install this particular proposed design of stained glass window has been demonstrated. The proposed window has received the unanimous support of the full PCC, and no objections have been

received to the public notices within the prescribed period (which expired on 18 March 2020, just before the current Coronavirus lockdown, preventing access to the interiors of all churches, was first imposed). The court does not consider that the PCC (and the donor of the window) should be prevented from implementing a design which is acceptable to the DAC simply because it does not meet the court's own more exacting standards of design and taste (even though these may be shared by the CBC). With some hesitation, the court is satisfied that it is reasonably necessary and requisite, as a matter of pastoral well-being, and for the living out of the Christian gospel, for the church to be allowed to receive this generous donation in accordance with the wishes of its PCC, even if the design can be characterised as bland and failing to provide the sort of strong and vigorous contribution to the appearance of the church building that such a donation should be. The court therefore grants the faculty sought. In the first instance (and bearing in mind the current Coronavirus restrictions) the court will allow a period of twelve months for the completion of the works.

20 The court has considered whether it should impose a condition that the glass that is taken out from the existing window should be preserved, as was done by the Chancellor (Sir William Gage) sitting in the Coventry Consistory Court in the case of *Re St Gregory, Offchurch* [2000] 1 WLR 2471. As the Chancellor explained in that case (at page 2477 D-E), referring to the existing glass:

“It must be preserved so that if future generations decide that the new window should be removed then the former window can be put back. In that way the effect of this change will not be as serious as if a more radical and irreversible alteration was involved. So far as the condition is concerned, in my view the diocesan advisory committee should decide what is the best way of preserving the glass, whether it should be here in the parish or whether it should be in some other repository.”

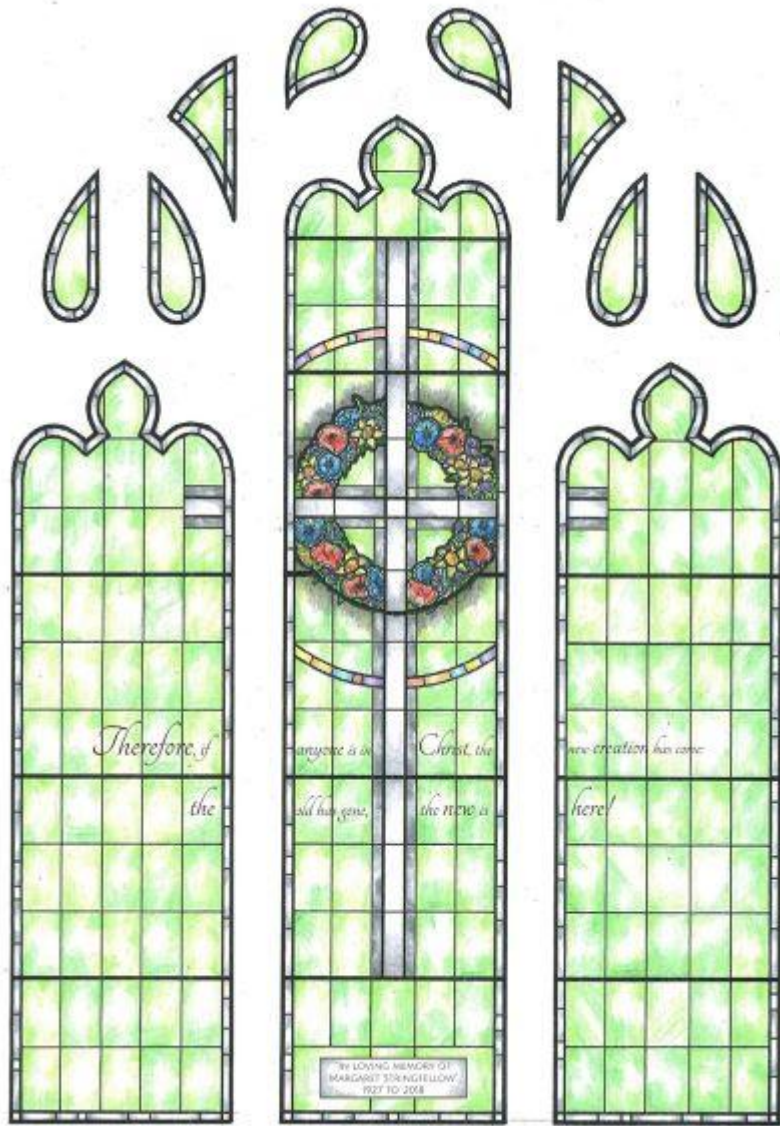
However, in that case the application was for a faculty to replace, as part of a millennium project, an existing Victorian monochrome grisaille window on the south side of the nave, to the west of the door and close to the tower, of an ancient Grade II* listed church dating from Norman times with a new window of abstract contemporary design by a local stained glass artist. The petition had been opposed by no less than 19 parishioners. Here the church is unlisted and the petition is unopposed. Once the proposed new stained glass window has been installed, it would seem to me to be unrealistic to think that there will ever be any movement to have it removed and the original plain glass re-instated. Moreover, the DAC have not advised the imposition of any such condition. From its own experience, the court appreciates that the preservation of stained glass for any substantial period of time can throw an unacceptable burden upon a parish. In order to guard against the unlikely eventuality that the PCC may be dissatisfied with the design of the window when it is in place, however, the court will impose a condition that the glass taken out from the existing window is not to be disposed of without the agreement of the DAC or further order of this court. On the basis of this condition, the court grants the faculty sought.

His Honour Judge David Hodge QC

Deputy Chancellor

Easter Monday 2020

Annex 1: The design of the new window



Annex 2: The existing window (Window No 1)



Annex 3: The Slinger Family Window (Window No 4)

