

Neutral Citation Number: [2024] EC Sodor 2

IN THE CONSISTORY COURT OF THE DIOCESE OF SODOR AND MAN

IN THE MATTER OF ST GERMAN'S CATHEDRAL, PEEL

JUDGMENT

1. This is an application by the Dean of St German's Cathedral and two of the wardens of the Parish of the West Coast (of which the Cathedral parish formed part until 1 January 2024) for a retrospective faculty granting permission for the installation of a series of sculptures in the cathedral grounds, including one signifying the role of education in the life of the Isle of Man. The statues are to be accompanied by informative QR codes explaining the significance of each.

Facts

2. The Cathedral Church of St German in Peel is both the cathedral church of the Diocese of Sodor and Man and the parish church of the Cathedral Parish. As mentioned above, this was carved out of the Parish of the West Coast by the Cathedral Pastoral Scheme 2023 (SD 2023/0280) with effect from 1 January 2024. I set out the history of the development of the cathedral in my judgment in *In Re St German's Cathedral Peel* [2021] EC Sodor 2. The cathedral is used in conjunction with an adjoining plot ("the Corrin Field"), but the latter is not consecrated. The boundary between the two plots, which have been in the same ownership for well over a century, is obvious only on the maps delineating the extent of the area to which the listing under the Registered Buildings register applies and the area covered by the sentence of consecration (they are the same). I accept that it is difficult to discern precisely where the boundary between the consecrated area and the Corrin Field lies on the ground.
3. In 2012 my predecessor, Faulds VG, granted a faculty for the landscaping of the grounds of the Cathedral. The plans included a series of 14 gardens showing developments in the Island's history from the time of St German to the 20th century. The map provided with the application leading to the 2012 faculty clearly showed the boundary between the consecrated area and the Corrin Field. It was intended that

all the gardens would include sculptures, but, although the faculty issued on the basis of the 2011 application authorised landscaping, it did *not* permit the erection of the proposed sculptures. These were installed during the last decade, and indeed were visited by the Princess Royal in her capacity as patron of the development of the Cathedral in 2019, but their installation came to the notice of the Registrar, who is based in York, only when a Facebook post appeared in July 2022 when the young man who had served as the model for one of the figures in the installation commemorating the development of education on the Island posted photos of two sculptures of his head with him alongside them. As a result of seeing this, the Registrar invited the Dean to apply for a retrospective faculty in relation to the sculptures in the consecrated area of the grounds.

4. In accordance with the Faculty Jurisdiction Rules (Isle of Man) 2016¹, the applicants consulted the Diocesan Advisory Committee for the advice required by rule 4. The application was considered by the Diocesan Advisory Committee in July 2023 and it recommended the application to the Court, although the advice does not address either the issue of retrospection or the inclusion of a representation of a living person.
5. When the application was referred to me by the Registry, I asked the Registrar to invite the Dean, as the lead applicant, to explain why the application was being made retrospectively and why the sculptures included a representation of a living person. In a reply transmitted to me by the Registry on 25th January this year, the Dean made a number of points about religious art generally. He pointed out that in the painting of the ceiling of the Sistine Chapel Michelangelo had used real people as models and had included some people who were still alive. He also referred to Stanley Spencer's Last Supper, which was commissioned for a private chapel in Bourne End, but a copy of which hung for many years in the church of Holy Trinity, Cookham (whose graveyard features in Spencer's *The Cookham Resurrection*).

¹ SD 2016/0231 as amended.

Matters for determination

6. There are three issues for determination :—
 - a. Whether the introduction of the proposed sculptures will cause harm to the cathedral as a listed building under the Town and Country Planning Act 1991 (Tynwald) and the Registered Buildings (General) Regulations of the same year in the light of *In re St Alkmund Duffield* [2012] EACC 1;
 - b. Whether it is appropriate to include a sculpture of an identifiable living individual within the precincts of the cathedral;
 - c. If the answer to the second question is “Yes”, whether it is appropriate to grant a faculty retrospectively.

Law

7. The test to be applied in England in the case of a listed building of Grade 1 or Grade 2* is that set out in *St Alkmund*. Many buildings are not subdivided in terms of their importance: a building is either listed or it is not. As I have already indicated, the cathedral is listed, and in an earlier judgment I accepted that the *Duffield* tests applied to it. I do not have the benefit of a reasoned judgment from Faulds VG in relation to the 2012 faculty on the question of landscaping, which she was considering at the time when the judgment in *Duffield* appeared. Nevertheless, she clearly considered that the statuary would enhance the setting of the cathedral. The *Duffield* questions so far as relevant are:—

- “1. Would the proposals, if implemented, result in harm in the significance of the church as a building of special architectural or historic interest?
2. If the answer to question 1 is “no”, the ordinary presumption in faculty proceedings “in favour of things as they stand” is applicable and can be rebutted more or less readily depending on the particular nature of the proposals (*see Peek v. Trower* (1881) 7 PD 21 at 26-28 and

the review of the case-law by Chancellor Bursell QC in *In re St Mary's, White Waltham (No 2)* [2010] PTSR 1689 at para 11.

8. The inclusion of the statues and other structures in the grounds does not adversely affect the setting of the Cathedral. The Department of Environment, Food and Agriculture had already approved the installation of the statues and other structures before their installation: the “ecclesiastical exemption” does not apply in the Isle of Man. I too am satisfied that their introduction enhances the setting of the cathedral, and, in an increasingly secular society, they help visitors to understand the evolution of Christianity in the Island and the role of the church both in proclaiming the good news and in addressing the atrocities of the 20th century including the Holocaust and the Rwandan genocide.
9. On the question of the depiction of living individuals, I accept that there are instances of their depiction in Anglican buildings. The display in Holy Trinity Cookham of Spencer’s painting of the Last Supper referred to by the Dean in his reply to the registry on this point is certainly one of them. On the other hand, there are instances of congregations and their officers objecting to depictions of living people. For example, the wardens of St Stephen Walbrook objected to the placing in the church by the rector, Dr Thomas Wilson², of a statue of his friend the celebrated historian Catherine Macaulay. Among the grounds of objection was that she was still alive³: as she outlived Dr Wilson the memorial ended up elsewhere, but it is evident that there was a significant body of opinion that depicting a living individual in a consecrated place, in order to commemorate them, was inappropriate. Similar considerations arose in *In re St John the Evangelist, Read-in-Whalley* [2017] ECC Bla 1 in the case of a window donated by the late Lord Waddington GCVO⁴, although in that case the Chancellor did grant a faculty. I have considered whether I should refuse to allow the sculptures of the boy’s head as a living individual, but I am satisfied that

² The son of the celebrated Bishop Thomas Wilson DD, the longest-serving Bishop of Sodor and Man.

³ Private conversation with the late Melvyn Jeremiah, CB, one of the later Wardens of St Stephen’s. Also substantiated by the entry on the website for St Stephen’s: see [Thomas Wilson - St Stephen Walbrook London](#) (accessed 3.2.24).

⁴ See:

they are not intended to commemorate him as an individual, but rather use his head as representative of a typical Manx schoolchild.

10. I turn finally to the question of retrospection. I find it particularly regrettable that the Dean, who was involved in the application for the 2012 faculty, did not see fit to seek approval for the erection of the buildings and statuary before undertaking these works. That failure is the more surprising given that during the vacancy in the Archdeaconry of Man, following the retirement of the Venerable Andie Brown in 2021 and the appointment of his successor, the Venerable Irene Cowell in June 2022, the Dean served as the acting Archdeacon. However, this should not and does not influence my decision.

Decision

11. There is a clear case for the approval of the installation of the sculptures and buildings within the consecrated part of the cathedral grounds, and a faculty will issue to authorise them. The churchwardens must enter the details of the faculty in the logbook for cathedral within 14 days of its issue.

Costs

12. As this is an application for a retrospective faculty, the petitioners must bear the costs of the application, rather than the Diocesan Board of Finance. I waive my own fees, but the Registry's costs, which amount to £256.75 including VAT, must be paid to the Registry by the petitioners within 28 days.

W. Howard Connell

Vicar General and Chancellor of the Diocese of Sodor and Man

28 June 2024.