

Neutral Citation No [2019] ECC Yor 5

In the Diocese of York

In the Consistory Court

The Parish of Skelton

The Church of St Giles

1. In November 2018 the Rev Malcolm Hugh Wainwright, Priest in Charge, Ian Barry Holbrook, Churchwarden and Adam Jawaid Thomas, the church organist, all at the church of Skelton, St Giles ("the parish") presented a proposal to the DAC for the
 - a. "Removal of the existing pipe organ by Peter Wood & Son (Harrogate) in mid-January.
 - b. Installation of a digital organ and associated sound systems by Anthony Bogdan Organs Ltd in late-January."
2. The matter was first considered by the DAC on 27th November 2018. At that meeting the Committee clearly gave careful thought to the matter. The minutes reveal that the Committee had a written report following a site visit from the Church Buildings Adviser. They also had a written report from the Organ Adviser, to which I will refer in due course. Peter Wood & Son had agreed to purchase the pipe organ, a solution which met with the Committee's approval. As regards the electronic organ to be introduced, the organist had tested it and was happy with how it played. The location of the speakers would need to be chosen carefully to take account of audio requirements and aesthetics. The sound box would need to be relocated. The Lighting Adviser had already discussed lighting options with the parish. Historic England and the Victorian Society had been consulted and their comments were awaited. As the removal of the pipe organ was the first step in a planned programme of re-ordering, members also briefly discussed the wider scheme. The Committee then recommended the proposals with a proviso that the positioning of the digital speakers should be agreed between the Church Buildings Adviser and the petitioners.
3. The matter was then referred to me on the Online Faculty System. I considered the material before me which included a letter from Historic England dated the 4th December 2018. In that letter Historic England indicated that they had no objection to the removal of the pipe organ. There had been no response from the Victorian Society within the relevant time period and so I deemed them not to be objecting. Having considered all the material I declared that I was satisfied that the petitioners had made out a case for their proposals and I directed that, subject to no objections being received following Public Notice, a faculty would issue.

4. Public Notice was then given of the proposals and the Diocesan Registrar received one letter setting out objections to the proposals. That letter, dated 6 January 2019, was from Peter Smith, ARCO, ARCM. In that letter he stated that he strongly objected to the proposal. He said that he was a former resident of Skelton between 1984 and 2006, and for most of that time had been the church organist at St Giles. He went on to say: "I am a qualified organist and am very familiar with the organ in St Giles, built by Forster and Andrews of Hull. It is a small instrument but ideal to the size of the church and, with minimal maintenance, has been working well for approximately 130 years. During the time I was organist and, since I left Skelton in 2006, the organ has been maintained by Principal Pipe Organs. To my knowledge (Principal Pipe Organs will be able to confirm this), there has not been a serious fault with the organ. Indeed, everything works as it should. This is not to say that the organ would not benefit greatly from a thorough cleaning and overhaul. If that was done, there is no reason why the organ should not continue to be effective for another 100 years. The life of an electronic organ rarely exceeds 20 years. My concern, therefore, is that long-term investment is being outweighed by short term expediency. St Giles Church is an historic church (13th century grade 1 listed) and the pipe organ is in keeping with the architecture of this beautifully designed building."
5. The Registrar thereafter, in accordance with the Faculty Jurisdiction Rules (FJR) 10.3, wrote to Mr Smith explaining the options facing him, namely whether to formally object by filing a Form 5 document, or to allow me to take his letter of objection into account when coming to my decision, without him becoming a party to contested proceedings.
6. Mr Smith has not replied to that letter. Under FJR 2015 Rule 10.3(2)(d) he is therefore deemed not to have become a party opponent, and FJR 10.5(2) then requires me to take account of any letters of objection, and any comments on them received from the petitioner, in reaching a decision on the petition.
7. The Registrar had of course also written to the Petitioners to inform them of the objections received. In due course they responded to the objections in a document dated 12th February 2019 setting out their response to the objections letter.
8. They say, firstly about the history of the organ: although there was a William Denman organ installed in the church in 1865, as a consequence of it suffering from woodworm and threats of breakdown, on 25 May 1954 a faculty was granted to replace it with a new two manual organ by Summers and Barnes. However, in the event the Forster and Andrew's instrument was bought second hand and installed in its place. Secondly, as to the organ itself: Mr John Scott Whiteley, the diocesan organs adviser, says that it is not a distinguished instrument of any high intrinsic value. Further it has only been in place for some 65 years. Thirdly, as to its state: although it has been maintained and is working, the electric blower is suffering badly from woodworm and will need to be replaced in the future. Fourthly, as to its future: Peter Wood & Son are to overhaul the organ, including the provision of a new electric blower, which they would then propose to use as a temporary replacement instrument in churches the organs of which they are refurbishing. Fifthly, as to the life of electronic organs: many now promise a lifespan of at least 30 years and they have a 10 year guarantee, covering the cost of repair and

maintenance, which will save approximately £1200 on routine pipe organ maintenance over that period. Sixthly, as to long-term investment and short-term expediency: the removal of this organ is the first stage of the future plans for this church which will include installation of an outdoor toilet, kitchen facilities, and storage, to enable them to better serve as a centre for the community. Further an advanced digital organ will be a more musically dynamic instrument than the current pipe organ and will help them to attract a better standard of musician for their weekly services. Finally, as to fittingness for the building: 13th century churches were never constructed with pipe organs in mind and the pipe organ is not especially in keeping with the architecture of this beautifully designed medieval building.

9. In all these circumstances the matter has now been referred back to me for a final decision in relation to the proposals.
10. The tests that I must apply are to consider firstly whether the petitioners have made a case for the proposal, secondly whether the proposals, if implemented, would result in harm to the significance of the church as a building of special architectural or historic interest, and thirdly, if they would, then there would be a number of other issues for me to consider
- 11.1 will begin with the basic question as to whether there is a case made out for replacing this organ. The Church Buildings Adviser's report provides me with the history of the Church. He says it 'is a perfect small Early English example dating from C1240, it is thought to have been built by the Masons from York Minster following the completion of the south transept. The following appears in Archbishop Grey's roll "confirmation of a donation to the chapel of Skelton to pay an annual sum of 20d to this parson ..." Despite two restorations in 1810 and 1818 by Henry Graham and in 1863 by Ewan Christian, the church has remained virtually unaltered. It comprises a continuous nave and altar with a bellcote at their junction. It is built of magnesium limestone with Westmoreland slate for the roof. The nave and chancel are aisled, the former with two bays and the chancel with a single bay. A marvellous dogtooth stringcourse runs at sill level round the whole facade and interior of the church. The south porch is an exact c19 copy of the original.' He then goes on to describe the plans that the Parish have to install a toilet in the churchyard, a servery in the church and the removal of some pews to create space for standing and circulation. The proposal in relation to the servery involves removal of the organ and installation of a new screen, to the same design as the chancel aisle screens, in the archway to the west of the nave aisle. To the west of the screen, they would like to install a small servery that would be designed to look like a piece of ecclesiastical furniture when not in use with a drop-down lid. In the chancel aisle, they would like to incorporate storage behind the servery/screen between the aisle and the nave. The new digital organ would be put against the screen between chancel and the aisle, where the current pipe organ manuals are located, with speaker location being agreed at a later date. He refers to the extensive consultation that has taken place with the DAC about these matters. He concluded his report by saying "the Parish representatives should be congratulated for trying to make their church the

heart of the community once again and for their enthusiasm and understanding of this wonderful and wonderfully cared for and loved building".

12. John Scott Whiteley in his report describes his visit to this church and his inspection of the organ. He sets out several puzzlements about its history which was subsequently resolved as I have indicated in paragraph 8 above. He says "It has an interesting, enigmatic history, a certain rarity value and a very much lesser degree of historiographical importance. Tonally it is very limited, undistinguished, and the sound lacks 'singing' qualities. The case, which has being cleaned or restored, has attractive, painted pipes and the visual aspect is both pleasing and typical of its period." He goes on to say "Destruction of this organ would constitute an extreme act of vandalism, yet its limitations of size suggest another church is unlikely to want it. An enthusiastic amateur would probably reject it on account of the fact that pedalboards like this cannot play any of the repertoire; neither can anyone play them any more - if they ever could! There would perhaps be some relevance in an organ like this, with a 'pretty' aspect, being displayed in a suitable museum ... other than this, a present-day organ builder might find a use for it. So if all else fails, I suggest giving it to a local organ builder."
13. Having regard to the views of these advisors it seems to me that a number of clear conclusions can be drawn.
 - a. The parish understand their church and have a deep desire to see it used for mission, in its widest possible application, at the heart of their community.
 - b. The parish has consulted widely and sought advice from those best equipped to help them achieve that objective.
 - c. This immediate proposal to replace the pipe organ with a digital organ is a first but significant step in implementing their plans.
 - d. The organ itself has no historical or other value, although its destruction would be a loss. In particular it has no historical or other value in relation to this church.
 - e. The proposal that it be refurbished and then used by Peter Wood & Son as a temporary organ in other churches where they are engaged to repair those churches' organs will in my judgement mean that its life will be prolonged and its use furthered for the foreseeable future.
14. Although this deals with a number of the issues raised by Mr Smith, it does not deal with an underlying argument, namely that any introduction of a digital organ is to be eschewed as short-sighted.
- 15.1 addressed this issue recently in Re Guisborough, St Nicholas Neutral Citation Number: [2018] ECC Yor 6.
16. In that case I said:

37 The next step is that there is no principle of law requiring that it be replaced like for like with a pipe-organ. However, there is a presumption that the starting point should be to replace a pipe-organ with a pipe-organ but that that is a presumption that can be rebutted.

38 If they are to rebut the presumption the petitioners will need not only to give an account of the "wishes, needs, and resources of the parish in question" but will also need to show that they have considered the merits and demerits of any alternative proposals, including those suggested by the DAC, and taking account of the comparative costs involved. In particular they will need to show that their preference for an alternative to a traditional pipe-organ follows careful and reasoned consideration after detailed and informed research. In just the same way the Chancellor must give regard to the advice of the DAC but is not bound to accept it if there are good reasons for not doing so.

17. Applying those principles to this case. The wishes needs and resources of the parish are clear. They have a long-term plan for the next few years about how they wish to develop this church for mission. That involves using the space currently occupied by the pipe organ. They would like to replace the pipe organ with a digital organ. Those who advise me support the proposal and say that the overall plan is good, that the loss of the organ will not be significant and in any event it will have a useful future in the care of Peter Wood & Son.

18. In all these circumstances I am satisfied that the petitioners have made out a case for their proposal. I am also satisfied that the loss of the organ will not be significant in terms of history or architecture. Finally I do not find that any of the arguments advanced by Mr Smith whether taken singly or together overcome those advanced by the petitioners in favour of their proposals.

19.1 therefore propose to allow the petition and grant a faculty subject to a condition that the positioning of the speakers shall be agreed between the Church Buildings Adviser and the petitioners. Failing such agreement the matter shall be referred back to me for further directions.

20.1 will allow 12 months for the completion of the proposals.

21. This being an 'opposed' petition the petitioners will have to pay the additional costs created by this being an opposed petition.

Canon Peter Collier QC
Chancellor of the Diocese of York.



5th March 2019