

CONSISTORY AND COMMISSARY COURT JUDGMENTS  
2009

<u>Date</u>	<u>Place</u>	<u>Diocese</u>	<u>Chancellor</u>
12 January	St Swithun, Long Bennington	Lincoln	Bishop

Reservation of a grave space for first Petitioner in a double depth grave with body of her partner of 25 years who died earlier and a space for second Petitioner next to her parents. There is plenty of room in the churchyard and PCC had no objections. Objection lodged by the three children of the deceased and his former wife on the grounds that the relationship between the deceased and the first Petitioner had broken down 5 years before he died and they were not married; that it would be upsetting for them to visit their father's grave knowing the first Petitioner was buried there; and that the deceased, being very traditional, would want his children buried beside him in order of age. First Petitioner denied all of this. Chancellor is convinced that statements lodged by the objectors bear long standing grievances against the first Petitioner and is not prepared to accept them. Faculty granted.

14 January	St Andrew, Surbiton	Southwark	George
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Demolition of existing vestry and construction of new extension for foyer, kitchen, toilets and meeting rooms. Re-ordering to include, among other things, a new doorway in southern wall to access the new extension and removal of choir stalls to both of which the Victorian Society objects. They recommend a narrower arched brick opening without the retention of the tops of the lancet windows which they would like to see relocated to another window. Choir stalls are original to the church and an essential part of the design of Blomfield's east end. The Church Building Council also has the same reservations as well as concern about re-positioning the font. After visiting the church, Chancellor satisfied that the font will be in a position where baptisms can more readily be seen with more space for families; the choir stalls are too long, not easily moveable and will block the proposed disabled access; retention of the tops of the three lancet windows above double glass doors will give the appearance of the church and extension becoming one. Faculty to be granted subject to compliance with conditions of planning permission and that drawings must be approved by DAC before work commences save the design of the doorway which will be determined by Chancellor

14 January	Re: Firth, deceased, Undercliffe Cemetery	Bradford	Walford
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Exhumation of Petitioners' son from Undercliffe Cemetery for cremation. Application supported by deceased's brother and sister, by the vicar and by Petitioners' GP. Undercliffe Cemetery has now restricted its opening times and thus severely curtailed the Petitioners' daily visits to their son's grave. They have suffered countless incidents of vandalism and theft from the grave but find they are unable to endure the ongoing stress

and worry and being unable to visit as and when they wish in too much to bear.  
Chancellor is satisfied there are special factors and faculty is granted.

29 January      Church of St Mary the Virgin      Bath and Wells      Briden  
                         Bishop's Lydeard

The obsolete electrical circuits were renewed under the authority of an appropriate faculty but as well, the lighting installations were replaced by a new scheme which wasn't covered by the faculty and is therefore unlawful. It has been inferred that the new lighting arrangements are very satisfactory but removal of the pre-existing fittings has been the subject of criticism from the 20<sup>th</sup> Century Society stating that the new system over lights a subtle and carefully proportioned interior and also that two of the pendants obscured the view of the rood screen. It is accepted that there was a genuine mistake about the extent of the faculty for renewing the wiring system but it works and the congregation is happy with it. Confirmatory faculty granted.

30 January      King Charles the Martyr, Falmouth      Truro      Briden

Grade II church built in 1662 which has undergone substantial modification over the years. Re-ordering to include extensive remodelling of the interior of the tower with lift and toilet, new spiral staircase to the gallery and a new ringing chamber. Supported, with small proviso, by PCC and DAC but objections from some parishioners to the ringing chamber which is seen as unnecessary and costly. Petitioners argue that the town needs a peal of bells for civic occasions and church services and encouraging the art of bell ringing will involve the community in the church. As money for the project is not yet available, a faculty will be granted on condition that no phase of the project should commence until at least 75% of the money needed for that phase has been raised, and that any historic fabric affected by the works should be carefully preserved and incorporated into the design.

31 January      All Saints, Ockham      Guildford      Jordan

This is a Grade I 13<sup>th</sup> Century church with a square tower added in the 15<sup>th</sup> Century and a funerary chapel constructed in the 18<sup>th</sup> Century. It has very few facilities, no vestry, no toilet, sink or hot water. Proposed construction of a vestry with disabled WC and sink unit for preparation of hot drinks. Georgian Group registered objections considering any extension to be unacceptable in historic building terms. English Heritage thought the proposal over-complicated for its size but concluded that it wasn't damaging. The CBC and SPAB set out its views on the proposal and put forward suggestions for lessening the impact of the roof of the new extension. Petition granted.

31 January      St Stephen, Burnley      Blackburn      Bullimore

To enter into an agreement with O2 for installation of four 3G telecommunications antennas behind replacement louvers in the church tower with associated equipment in the basement, bringing in an income of £6000 per annum. In the absence of any



but do stand by the content of their letter which showed concern as to the extension being attached by a link, that the facilities could be placed within the present structure and that the extension would compromise the symmetry of the church. Chancellor concludes that the proved necessity justifies the adverse effect. Faculty granted.

17 February Christ Church, Cockermouth Carlisle Tattersall

Minor re-ordering to allow greater flexible use of this Grade II listed building, to include removal of existing pews, provision of new toilet, kitchen facilities and the re-location of the font and pulpit. Much opposition to the first proposals which were abandoned. Findings of a questionnaire sent to parishioners showed high proportion of support for current proposals as well as support by PCC and DAC. Thirteen objectors concerned with the overall cost and while agreeing that much of the work is necessary, some is not such as the removal of pews, relocation of pulpit and font, and meeting room at rear of nave. Statement of need was considered and the faculty granted.

24 February St John the Baptist, Dudley Worcester Mynors

Petition by the daughter for the exhumation of cremated remains of father from St John's Churchyard to be re-interred with the body of her mother who died recently and her brother who died unexpectedly only months before her father in the family plot at Queen's Cross Cemetery. The parents always expressed their wish was to be buried together even though the father wished to be cremated and the mother buried. The then vicar of St John's suggested that the father's remains be buried there, knowing that there was no space for the interment of bodies while also knowing that they wished to be together. Chancellor satisfied that their circumstances fall within the exceptions to the norm that Christian burial is final. Faculty granted

24 February St Mary & David, Kilpeck Hereford Kaye

Application to erect a grave stone made of red stone similar to that used to build the church, in memory of deceased partner. Memorial considered by the DAC to be imaginative and of artistic merit although it doesn't comply with the current Churchyard Regulations and is not supported by the present priest-in-charge because it lacks sympathy with other memorials, that it has caused a division in the community, it would open the floodgates for other applications and that there is unwarranted pressure on the PCC because the stone has already been made and placed in the garden of a family member of the village. Chancellor notes the obvious considerable care and thought that has gone into devising a unique and special memorial dedicated to an artistic and creative lady. Petition granted.

24 February Great Malvern Priory Worcester Mynors

Proposed removal of nine bells hanging in an 1887 bell frame in this Grade I listed 900 year old church and re hang with new fittings in a new metal frame with the addition of

two new bells. Opposed by English Heritage who believe that there is a possibility of retaining and strengthening the existing bell frame. Although there are no other objections, a compromise could not be reached with EH who wish to explain its position at a hearing. The condition of the installation is fair although the fittings need some attention but EH believe that strengthening the existing frame and introducing two new bells could be done for the same price as that of replacing the frame and may be cheaper with the availability of a grant. The Petitioners state that full circle ringing is difficult due to weight and difficult “go” of the bells mainly because of excessive movement caused by lack of anchorage. This is making it hard to retain existing ringers and train new recruits. Over the years advice given by several bell experts maintain it would be better and cheaper to install a new frame rather than try to strengthen the old one and the addition of two further bells without significant re-arrangement would be impractical and costly. If parishioners were not convinced about repairing the frame instead of replacing, the money would not be raised. Chancellor concludes that the bell frame is a feature of some special historic interest and its removal would adversely affect the character of the church, that the repair of the existing frame would be just as effective as a replacement frame and that the costs of each option are comparable. Petition denied.

26 February    Re: Peter Hudson, deceased                      Carlisle                      Tattersall

The deceased’s daughter wishes to exhume her father’s body from Bromfield for re-burial in Carlisle Cemetery where he had bought two grave spaces for himself, his wife, daughter and her husband. He had since divorced, remarried and moved to Bromfield with his new wife. Diagnosed with a terminal illness, he expressed his wish to be buried in Bromfield and chose a burial plot himself. He died six months after moving to Bromfield. His second wife has since remarried and moved to France. His daughter wants to carry out her father’s original wishes to be buried in Carlisle but Chancellor accepts that wishes change with time and concludes that the facts presented do not justify an exception to the general rule of burial. Petition denied.

2 March            St John the Baptist, Feckenham                      Worcester                      Mynors

Re-ordering of the west end of this Grade II church of special architectural interest. The church has undergone various re-ordering over the years but now needs to comply with the Disability Discrimination Acts including better entrance, toilet facilities, kitchen, dedicated storage space, a meeting room and greater circulation space inside the main south entrance. Objectors concerned about “unnecessary” building works as the last re-ordering only 20 years ago works sufficiently well. Concern that the meeting room would be smaller, although the new area at the rear of the nave would be more attractive for meetings, and that the chair store would also be smaller. Concern also that there would be nowhere private and secure to count the offertory and store the safes, and whether a lift was really needed. Chancellor satisfied that the works would solve many problems while creating others but that it is the best scheme apart from the introduction of a lift. Faculty granted for proposed works other than the platform and wheelchair lift.

13 March            St Peter the Apostle, Draycott                      Bath & Wells    Court of Arches



29 March      St Swithun, Long Bennington      Lincoln      Bishop

Provisional assessment of cost made on 8<sup>th</sup> February 2009 of £1500 plus VAT Registry costs and £100 Chancellor's cost to be paid by Petitioners. Written submission by Petitioners accept the quantum of costs but submit that the conduct of the objectors was unreasonable and therefore all or some of the costs should be borne by them. Chancellor disagrees and confirms order for costs to be paid by Petitioners within 3 months.

30 March      St Mary, Ticehurst      Chichester      Hill

Faculty issued on 13 February 2009 for extension to form a children's chapel and meeting room with kitchen and toilet facilities and wheelchair access. Stay of proceedings to determine the adequacy of public notice as referred in a letter of 5 March. It appears that possibly only the face and not the reverse of the Notice was displayed, the reverse giving the address for objections and the deadline by which objections should be received. The churchwarden is adamant that both sides were on display, the reverse having been photocopied. Chancellor makes no factual findings on this matter. The objections were mainly to the cost of the project and the impact it would have on the existing building. On the face of it, the determination of the petition would have been no different and the faculty still granted, therefore the stay be lifted

1 April      St Peter, Slinfold      Chichester      Hill

Modest extension to provide kitchenette, storage and disabled toilet. Project has been under consideration since 2002. Extensive consultations over the years with no objections from EH or VS, firm proposals taken hold and planning permission granted, but CBC not consulted until June 2008 who recommended rethinking the project. Whether they were not advised to contact CBC or neglected to do so is not clear but it remains that they should have been consulted at the outset. However, Chancellor satisfied that petitioners have demonstrated a need for these works, faculty granted.

6 April      St Peter, Dunchurch      Coventry      Gage

To erect replacement gates to the churchyard and a matching new gate to the "jetty" entrance, in wrought iron of a lower height than the originals, finished in black with some gold highlighting and to match other street furniture in the surrounding village. One formal objection from local resident on the grounds that new gates with greatly modify the character and appearance of the conservation area in which the church is situated. Original gates are of sand cast iron made in 1828 and have been repaired a number of times over the years but are very brittle and difficult to weld. In 2001 one of the central gates broke from its hinges and fell whilst being opened, so on health and safety grounds they were removed. An independent assessment put the cost of repair at £20,000 even if it were possible. In 2004 the broken gates were disposed of without the necessary emergency faculty being sought and in 2007 an appeal to raise funds for replacement gates began. Planning permission was granted in June 2008. At some point the Secretary







interim faculty for these works was sought. Argument put forward as to whether an interim faculty could be granted or if the present application were a new petition requiring separate citation. Chancellor satisfied that he had such jurisdiction. Hearing to be resumed on 14<sup>th</sup> July.

14 July            St Mary, White Waltham            Oxford            Bursell

Estimated cost of the works was £500,000 in 2005, funds intended to be raised by special appeal and grant making bodies. £120,000 already raised with promises of further sums once faculty has been granted. Real concern that even if application granted, work would not be completed on time, a fresh application for planning consent would have to be submitted and ultimately the cost of building the Sunday school would not be met. Also concerns as to what extent these works would be reversible if the scheme were not completed. There would also be some interference with human remains and some damage to surrounding trees. Chancellor accepts that most of the work is reversible, therefore, on condition works are completed by midnight on 22<sup>nd</sup> July 2009, permission is given to carry out the ground levelling and piling works.

6 August            St Thomas a Becket, Newton            Exeter            McFarlane  
Tracey

Re-ordering to include replacement of pews with chairs, removal of prayer desk, new lighting, carpeting in nave, small kitchen and five convection heaters which will be a way of providing a more useful space throughout the week for a variety of church and group meetings. English Heritage, Victorian Society and Church Buildings Council are generally in agreement but are not in favour of carpeting or the removal of all the pews, recommending a more modest solution of adapting the pews as benches to be used elsewhere. There were 9 letters (4 from the same family) of objection to the removal of the pews and prayer desk and the carpeting. It was agreed to keep one pew that this particular family sat in. It became apparent that the church was too small to accommodate two differing styles of seating. Chancellor is satisfied that the “need for change” is made out, therefore the pews should be removed apart from three as stated in the petition, the prayer desk should be re-located. The application for carpeting to be adjourned while a case is made out and other alternative options looked at.

6 August            All Saints, Crawley Down            Chichester            Hill

Erection of a memorial on the grave of petitioner’s late husband. Memorial did not comply with churchyard regulations although supported by PCC and incumbent. DAC had no objection to the family’s wanting a design alluding to the deceased’s love of books but not happy with the actual design of a closed book chosen from a stonemason’s catalogue, preferring a bespoke design from a craftsman. DAC objected to the use of deceased’s nickname and the words Dad and Grandad to which Chancellor disagrees. Also objection to the inscription “taken suddenly too soon” and “simply the best” Chancellor would permit the erection of memorial in form of closed book and use of





hue of the stonework, a third in a darker but complementary colour and the remaining with wooden backs and the seats covered in the same two colours in equal numbers. English heritage did not object but preferred all chairs to have wooden backs and that the seat cushions be of one colour to avoid a chequerboard effect. It did however object to the use of the darker colour and to the limed effect on the wood. On the Chancellor's advice, the petition was amended to allow all the chairs to have padded seats and backs upholstered in the lighter colour and a faculty was issued on condition that no order be placed until a sample of the wood finish has been approved by the court.

14 October                      All Saints, Dulverton                      Bath & Wells                      Briden

Two petitions, one concerning layout of churchyard and the other for internal re-ordering. Some letters of concern received regarding the proposal for enhanced pedestrian access along south side of church and to widen the path from the lynch gate to the south door for vehicular access, the latter which would require a turning area and involves the sacrifice of a wooden shed. The gradient is steep for pedestrians and at present, coffins have to be carried up or wheeled up on a trolley as does any large equipment. The path along south side needs to be modified to circumvent the steps and so provide easier access for the disabled to comply with the DDA 1995. Faculty granted with proviso that any human remains disturbed should be reverently reburied within the churchyard.

Re-ordering concerns the introduction of a new oak floor extending westwards to make a platform with ramps for the disabled, displacing front row of pews in the nave, 3 pews in north aisle and 2 in south aisle. Also intention to remove two rows at the west to create an open space for circulation and displays. Faculty granted

17 October                      St Margaret, Halliwell                      Manchester                      Tattersall

Petition for faculty for repairs to the roof of the baptistry which had already been completed. Works not recommended by DAC as the specification provided was inappropriate. A certificate to that effect was issued by the DAC along with the Petition and the Public Notice. The Petition signed by both petitioners did not disclose that works had already been completed. The Diocesan Registrar on the direction of the Chancellor asked why works were carried out without a faculty and against DAC recommendation, and an oral hearing was ordered. Chancellor found petitioners' evidence lacking in credibility on many counts and concluded that they had carried out the works in the full knowledge that a faculty was needed. However, confirmatory faculty granted as Chancellor has no knowledge as to whether works undertaken were of correct specification or not, only time will tell.

29 October                      Grimsby & Cleethorpes                      Lincoln                      Bishop  
cemeteries

Council seeks permission to carry out physical testing including topple testing of memorials in the consecrated sections of these cemeteries to ensure they are safe for users of the cemeteries. Work to last 5 years and cost £125,000. Headstones to be categorised into those that require urgent attention, those that should be re-inspected in 12



Petitioner wishes to erect a headstone over the grave of her late mother but as the inscription falls outside that permitted by the Churchyard Regulations the incumbent of St Mary's was unable to sanction it and advised petitioner to seek a faculty. Wording refers to the deceased as "Mummy" a form of address limited to the deceased's children but not necessarily other relatives and friends therefore appearing exclusive rather than inclusive. The inscription also mentions a man's name but does not indicate who he is (presumably husband of the deceased) therefore rendering the term "Mummy" inaccurate. Chancellor suggests a more appropriate and inclusive inscription which would embrace successive generations but agrees to the word "Mummy" if, after reflection and consultation with her family, the petitioner considers that no other wording will suffice.