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CONSISTORY COURT CASES 2007

<u>DATE</u>	<u>PLACE</u>	<u>DIOCESE</u>	<u>CHANCELLOR</u>
9 January	St John the Baptist Aston Cantlow	Coventry	Gage

Removal of medieval timber ladder leading to ringing chamber and replace with a metal spiral staircase, reusing the existing ladder between ringing chamber and silence chamber. This will involve some alteration to the floor of the ringing chamber and also excavation to provide a concrete base for the staircase which in turn will require archaeological investigation. The CCC argue that this scheme will compromise the ancient beams and have proposed an alternative scheme by way of a balcony with two vertical supports and the use of two vertical ladders. This, however, means attaching vertical supports to one of the ancient beams and therefore provides no practical alternative. Faculty granted

10 January	St Mary, Sledmere	York	Collier
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Private petition for exhumation of the bodies of Sir Mark Sykes and his wife from sealed lead coffins in the churchyard at Sledmere. Sir Mark died in 1919 of Spanish flu and his wife was buried in the same grave when she died in 1930. The petitioner Professor John Oxford a world renowned influenza virologist is leading a team in researching the genetic structure of the virus to gain an understanding of the spread of the virus which could have a profound impact on the approaches to the clinical treatment of avian influenza. His belief is that bodies which have been encased in lead coffins will be better preserved from which to obtain lung samples. Permission has been granted by Sir Mark's surviving family, six grandchildren. Chancellor satisfied that this petition if presented as part of a piece of bona fide medical/scientific research and this coupled with other considerations makes it an exceptional case. Faculty granted.

11 January St Mary and St Nicholas Guildford Jordan
Leatherhead

Restoration and reinstallation of an 18th century organ. Over the years the organ has been partly repaired and moved and consequently damaged in a fire. Proposals to reconstruct the organ has been costed at £200,000 with Heritage Lottery Funding of 90% of cost. The church is working hard to raise £20,000 through fundraising activities and has approval from the majority of the parish and the DAC. Organ to be sited in the North Transept for use with the choir and for concerts. One objection to the amount being spent and proposed alterations to the church. Faculty granted

22 January St Dunstan's, Cheam Southwark Petchey

Exhumation of cremated ashes from consecrated ground to be scattered at sea. Mrs Whiston believes she made a hasty decision in having her son's ashes interred after he died tragically in a road accident as she herself was still traumatised by involvement in a major road accident herself. She now wishes to have the ashes scattered at sea and identifies the special circumstances as being her son's death at an early age; his lack of connection with St Dunstan's (although it is Mrs Whiston's parish church); her own ill-considered decision; her conviction that her son would have preferred his ashes to be scattered at sea; and that she is unable to tend the grave due to disability. In re Blagdon Cemetery was considered and petition dismissed.

14 February All Saints, Burbage Salisbury Wiggs

Two petitions, one to replace inner south porch doors and outer porch gates with modern oak glazed doors, alter the south porch floor to allow disabled access and the second petition to remove pews and replace with chairs, lower the platforms to floor level and relocate the font. The first petition will not be sought if permission is not given for the second because removal of the pews would create a better flow through the south door which in turn could be made accessible to disabled people. One objector on grounds of aesthetics, history and waste of money. The CCC approved the petition, the Victorian Society and English Heritage opposed removal of pews. In conclusion, the Bishopsgate questions were answered in the negative, therefore the second petition failed and with it the first. Petitions dismissed.

22 March All Saints, Pontefract Wakefield Downes

Petition for a modern multi-functional one stop building on the site of a ruin which will incorporate all the church activities under one roof incorporating meeting rooms which can serve as an extension to the church when needed. There are a number of objections concerning aesthetics, parking, access, burial sites and the fact that there is already a church hall, many of which have already been addressed before planning permission was granted. Widely supported by a number of Societies subject to a number of considerations which would be resolved

before work begins. Bishopsgate questions answered. Conditional faculty granted and proposals taken forward on the basis of supplementary petitions at the various stages of the work and consultation with the DAC.

4 May All Saints, Pakefield Norwich Blofeld

This Grade II listed building was rebuilt and refurbished in the 1950's after extensive bomb damage in the Second World War. New pews were made of oak and fitted at that time and it is these pews that are the subject of this faculty for replacement with chairs using money donated by a member of the congregation in to commemorate his mother. PCC in favour but at a public vote, 65 were for and 62 against with 3 abstentions. DAC approved the idea but a petition was raised by those opposed so an oral hearing in the church was decided. The Rector said that the arches in the middle of the church made it difficult to use the building for alternative purposes, such as concerts, while the pews were in place and as the church was underutilised, this needed to be addressed. The Archdeacon of Norfolk pointed out that "the best way of securing the upkeep of historic buildings is to keep them in active use" Parties opponent considered the chairs to be of low quality with a shorter lifespan than pews, that pews give better support and can accommodate more people. Bishopsgate questions answered and the faculty granted on the condition that the pews be kept in storage for 15 years.

10 May St Margaret, Angmering Chichester Hill

Demolition of existing office and construction of a meeting room, WC, kitchenette and office; construction of a new main entrance and reordering to include removal of pews, pulpit and choir stalls and repositioning of lectern and font. Opposed by Victorian Society, Ancient Monuments Society and Society for Protection of Ancient Buildings as well as 11 objections from individuals. Agree that works will have an adverse effect on the character of the church but the necessity proved for the internal reordering is such that it justifies this. The existing extension is post war and of little architectural merit, planning permission has been granted for new extension and necessity proved. New main entrance involving breaking through of an aperture in west wall of the Gratwicke Chapel is most contentious issue but again necessity proved although concern over amount of glass in the facades of both extensions. Faculty to be granted on condition that extent of glass be reduced which will require revised plans.

10 May St Martin of Tour Guildford Jordan
 Epsom

Re-ordering west end of church and associated works including removal of pews, removal of panel in south aisle, access ramp to west door, use of coffee station and servery and installation of toilets. Objections on the grounds of lack of consultation; changes to the original plans; lack of adequate costings. Faculty granted for all but the ramp.

30 June St Mary, Worplesdon Guildford Jordan

Re-ordering of the chancel to include temporary removal of some choir stalls, extension of the dais to provide space for a nave altar and reorientation of the pulpit staircase in order to introduce some space and flexibility while respecting the present appearance of the church. Nine objections to the cost and to changes that would adversely affect the style of the church. Suggestions that those who want change should worship in the more modern church in the same parish but this would be divisive. Cost has been considered and the church in funds. Faculty granted

2 July St Mary's Church, Goring by Sea Chichester Hill

Petition to exhume cremated remains of son from one part of the garden of remembrance to another. Son was murdered at the age of 21 and a plot chosen with tablet installed which the mother could see from the path until another tablet was installed directly in front of her son's. Exceptional circumstances arising from the profound grief of a mother at the violent death of her son and her misapprehension as to the exact nature of his final resting place. Petition granted

7 July Alfred George Hope Newcastle McClean
Deceased

Petition to exhume cremated remains from one cemetery for re-interment in another to lie with those of his wife. No exceptional circumstances, legal principles binding. Petition dismissed

16 July St Mary, Chiddingfold Guildford Jordan

Construction of a church room in a natural contour of the churchyard, therefore partially subterranean, with the roof turfed, thereby presenting a continuous sward of grass. Planning permission was denied for the building of any structure attached to the church. Need for more accommodation for Sunday school attendees. Planning consent has been obtained but awaiting decision of the Government Office. Objections from two residents who live in the lane bordering the churchyard to the removal of a yew tree which is subject to a preservation order, drainage & flooding (of which there is a problem in that area) and compatibility with neighbouring properties. Chancellor satisfied that objections to the petition have not made out a case that merits its refusal. Faculty granted.

1 August St Michael, Kirkham Blackburn Bullimore

Reordering of Grade II listed church to include removal of front pews, modification of platform on which they stand and re-alignment of central heating pipe work to be followed by construction of a shallow platform around the pulpit which is set on a stone plinth. As these were minor works and there were no objections, faculty was granted in 2006 but it transpired that there were objections from churchwardens, the Reader and long standing members of the congregation, sent to the Bishop rather than the Registrar. Bishopsgate questions raised. Necessary to give equal access to all for Common Worship and non secular events and improve visibility. Chancellor ruled that the works will have minimal effect on the fabric save for removal of pews, works could be reversed, and the church has undergone many other changes over the years. Faculty granted

10 August Re: David Flower, deceased Manchester Tattersall

Exhumation of cremated remains from churchyard of St Elisabeth Reddish Stockport for reburial in unconsecrated grave in Highfield Cemetery, Bredbury Stockport. Mr Flower's wife was severely depressed at the time of his funeral and arrangements were made by her children who chose St Elisabeth as being close by. She is upset that no headstone is allowed, that the graves are walked over and fouled by dogs and that flowers are often stolen. She herself has bought a plot in Highfield Cemetery where her sister is buried and where they do allow headstones. In re Blagdon Cemetery and in re Christ Church Alsager cited. Chancellor does not agree that there is an exception to the presumption of the permanence of Christian burial. Faculty denied.

14 August All Saints, Stand Manchester Tattersall

Rev Canon Robert Warner, a former rector of All Saints, seeks a faculty to inter, at a future date, his ashes and those of his wife beneath a tile in the sanctuary of the church. Supported by PCC and unopposed by the DAC on condition that the wording on the plaque be approved by them. Burials in churches have not been permitted since the Public Health Act 1848 and interment of cremated remains is now very uncommon. To grant permission will set a precedent for others to seek similar faculties. While Rev Warner may meet the test of exceptionality, on the information given, his wife would not and furthermore, the faculty sought is prior to the death of the Petitioner. Faculty denied.

17 August In re William Philip Allen, Manchester Tattersall
Deceased, Michael Larkin,
Deceased and Michael O'Brien,
Deceased

The above three were executed in 1867 and interred within the precincts of New Bailey Prison. In 1868 when New Bailey closed, their remains were re-interred in Strangeways, now known as HM Prison Manchester and then during rebuilding of the prison in 1991 again re-interred in Blackley Cemetery along with cremated remains of 60 other prisoners, only 45 of which are named, neither of these 45 being the three Deceased. Application by John Desmond on behalf of the Bandon Historical Society to open grave to see whether the caskets are marked as if so, a further application is contemplated to exhume remains for re-interment in Glasnevin Cemetery, Dublin, based on statements before their deaths expressing a wish to be buried in Ireland. None of the caskets within the grave carries an identifying marker so to locate the Deceased's caskets will inevitably involve the disturbance of some or all of the other caskets. No evidence produced to justify the Petitioner's contention that the Deceased's remains are those in caskets with cremation references rather than names. Petitioner then amended his application for exhumation of all 15 un-named remains for re-interment in Dublin. Both applications refused.

25 August St Mary the Virgin, Weston Oxford Bursell
Turville

After the death of their 18 year old special needs daughter, the parents wish for a "child's headstone" which would be replaced with an adult one when one of them dies. The design and inscription falls outside the scope of the Churchyard Regulations and so a decision has been referred to the Chancellor. Faculty denied.

10 September Christ Church, Oakworth Bradford Walford

Replacement of existing altar and lectern with new, the altar to be a memorial to a member of the congregation who left a legacy to the church. One objection on grounds that it is unnecessary and wasteful. Compelling practical reasons for new altar, no costs involved, Faculty granted.

20 September Holy Cross, Newcastle Newcastle McClean

A faculty was granted in 2006 for installation of a set of Stations of the Cross to which there was one objection from Mr Brain. Stations were purchased and installed but Mr Brain removed and smashed one and made it clear he would do more damage unless they were removed. Mr

Brain still attends church under supervision and the churchwarden has now applied for a restoration order and an injunction. Due to a legal issue a restoration order has been refused but a permanent injunction granted.

25 September Re: Marie Harris, deceased Exeter McFarlane
 Sidmouth cemetery

Application for the remains to be exhumed and re-interred in the churchyard of St Mary's, Thame. Her widower wishes to move to Thame to be nearer his two sons and was under the misapprehension (on advice given by the undertakers) that he could move his wife's ashes with him on application of a licence from the Home Office. One son disagrees with moving his mother while the other, who has sadly lost his own wife, is in favour of it. Petition is justified on the grounds of mistake and the faculty granted.

25 September Exeter High Cemetery Exeter McFarlane

Petition for cremated remains of late husband to be exhumed from consecrated grounds and re-interred in Exeter and Devon Crematorium in unconsecrated ground, supported by her two sons, the reason being that she does not wish her remains to lie with her in-laws but with her husband alone. Re Blagdon Cemetery cited. Faculty denied.

12 October All Saints Stand Manchester Tattersall

Petitioner seeks leave to appeal to the Chancery Court of York against judgment made on petition of 27 June 2007. Permission denied on the grounds that legal principles applied were correct; new matters raised have not led Chancellor to reach a different decision; Chancellor is unaware of any reported cases where faculties were granted; Chancellor's decision is related to whether it was appropriate to grant faculty in respect of this church.

13 October St Michael and All Angels Carlisle Tattersall Beetham

Petition from churchwardens to redecorate the church, vestry and porch using an oil based distemper to the rendered walls. Objection by a former church warden who said it would be sacrilege and inappropriate to the church. Another objection from a member of the congregation who said no such painting had ever taken place in the church. The Petitioners said the walls had been painted before damp led to cement rendering, that there had been an open meeting encouraging parishioners to visit other churches with painted walls and that by and large they were satisfied with the proposed works after such visits, and finally that chasing in new wiring will leave the walls disfigured. Faculty granted.

22 October St Paul's, Shepley Wakefield Downes

First petition in March 2006 for extensive reordering turned out to be too expensive and this petition is now presented on a different basis. Original extension was to have pitched roof which obscured a window and was unlikely to obtain planning permission. Flat roofed extension was not supported by the Victorian Society on the grounds that it was ugly and detracted from the appearance of the church. They were also unhappy with removal of the gallery as it was part of the original fabric of the church. The parish have proof that it was added later against the wishes of the architect and also pointed out that it was dangerous, unusable, obscures a window and needs to be removed to carry out the necessary provision of disabled access. It has also been sanctioned by a previous faculty. Faculty granted on condition that the carved panelling of the gallery be used elsewhere in the church or at least stored in the church.

25 October Icklesham Churchyard Chichester Hill

Petition for the retention of a memorial which does not comply with Churchyard Regulations although permission for its erection was given by the assistant curate. The hearing was to look into whether, in the event of a ruling against retention of memorial in its current form, there was a way in which memorial could be modified. Petitioner states that his mother-in-law chose the memorial from a brochure at the funeral parlour and obtained permission at a meeting with the assistant curate, Mr Cox who has since denied such a meeting took place. Although the deceased's wife signed the application form that stated she had read the Churchyard Regulations, she did not know such Regulations existed and had she done so, would have abided by them and chosen a suitable memorial. She has removed artificial flowers, cherubs and angels upon request and keeps the grave in excellent condition. Mr Nice of the funeral directors also put his signature to the same statement although he too had not read the Regulations with any thoroughness to which he has accepted full responsibility. Although the family was badly advised at the time, and the removal of the memorial would cause great distress, the memorial itself is aesthetically intrusive and dominates the churchyard and as such the application must be dismissed. It was suggested removing kerbstones and chippings leaving just the headstone but family would rather memorial be removed altogether than remain in a modified form. Removal to be at cost of funeral directors and reimbursement of whole cost of memorial to the family.

30 October St Dunstan, Mayfield Chichester Hill

Reordering of west end of church and treatment of death watch beetle, the latter work to proceed as no objections. Sixty letters of objection to reordering, three of which became party to the proceedings. Clear Statement of Need presented for replacing a cluttered and inflexible space with an arrangement that would provide additional worship space, an area for children, school activities, gatherings, exhibitions and informal meetings. Also a Design Statement to improve view of the window dedicated to St Dunstan and repairs to aisle. Reordering to include removal of pews, levelling of floor, construction of a purpose built library and replacement of the masonry infill in the tower arch with acoustic glazing,

17 December Wiggonholt Church Chichester Hill

Introduction of a wooden bench into the churchyard paid for by way of donation, to welcome visitors and provide a comfortable place for reflection. Several letters of objection regarding health and safety, disabled access, aesthetic concerns, cost of upkeep etc. Setting of the church will not be compromised, the intrusion slight, and the works completely reversible. Faculty granted.

17 December St Mary and St Gabriel Chichester Hill
 Harting

Introduction of a statue of St Gabriel, designed and sculpted by Philip Jackson and privately funded. Objections mainly to the design, size, that it would shut out light and disrupt the contemplative nature of the north transept and that it panders to a “cult of saints” which is antithetical to the Church of England. Chancellor satisfied that there is no evidence of anything doctrinally offensive, that the sculpture itself is complimentary to the simple style of the church and that the works are completely reversible. Faculty granted.