

Neutral Citation Number: [2022] ECC Bla 3



*Faculty – Grade II\* listed church in South-East Lancashire closed for regular public worship in 2016 – Proposal to remove the ring of eight bells for refurbishment and installation at the Grade II\* listed church of St Cutbert, Over Kellet in North Lancashire – DAC recommending proposal for approval – Objections received from 13 individuals but no-one becoming a party opponent – Faculty granted*

**Application Ref: 2022-071118**

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

**Date: Sunday, 7 August 2022**

**Before:**

**THE WORSHIPFUL DAVID HODGE QC, CHANCELLOR**

**In the matter of:**

**St James, Church Kirk**

**THE PETITION OF:**

**JENNIFER READ (Senior Church Buildings Officer)**

This is an unopposed faculty petition determined on the papers and without a hearing.

Objections were received from 13 individuals but none of them has elected to become a party opponent.

The following cases are referred to in the Judgment:

*Re Jesus College, Cambridge* [2022] ECC Ely 2

*Re St Alkmund, Duffield* [2013] Fam 158

*Re St Chad, Longsdon* [2019] ECC Lic 5

*Re St John the Baptist, Penshurst* (2015) 17 Ecc LJ 393

*Re St Luke the Evangelist, Maidstone* [1995] Fam 1

*Re St Peter & St Paul, Aston Rowant* [2019] ECC Oxf 3, (2020) 22 Ecc LJ 265

*Re St Peter, Shipton Bellinger* [2016] Fam 193

## JUDGMENT

### Introduction and background

1. This is an online faculty petition, dated 19 April 2022, by the Senior Church Buildings Officer for the Diocese of Blackburn. She is the petitioner because the church of St James was declared closed for regular public worship by a Pastoral Church Buildings Scheme, made under the Mission and Pastoral Measure 2011, on 5 May 2016. This Scheme also created a new benefice comprising the parish of Church Kirk, the parish of Accrington Saint Andrew, the parish of Accrington Saint Mary Magdalen, and the parish of Accrington Saint Peter (although these parishes all continue to exist as distinct parishes). As described in the petition, the public notices, and the Notification of Advice issued by the Diocesan Advisory Committee (the **DAC**), the proposal is:

To remove the ring of eight bells and the bellframe from the tower, trade in the tenor bell, recast the Bb, F and treble bell, refurbish the remaining bells and associated fittings, introduce a new treble bell and rehang in a new bellframe in the tower at Over Kellet St James. All in accordance with the quotation and specification by John Taylor and Co. dated 27 November 2021.

John Taylor & Co are well-known bellfounders and bellhangers based in Loughborough. Their revised specification and quotation runs to some ten pages.

2. There is, in fact, no church of St James at Over Kellet and the proposal is to remove the bells to the church of St Cuthbert, Over Kellet. This is clear from the minutes of the meeting at which the DAC resolved to recommend the faculty application for approval. These read:

#### **Church Kirk St James (Grade II\* Closed church)**

An application was discussed to remove the ring of eight bells to be installed into Over Kellet St Cuthbert. These works are to be paid for by the Keltek Trust. Church Kirk is a closed church which is in the process of being handed over to the Church Kirk Regeneration Trust. The Trust has agreed for the bells to be transferred to Over Kellet St Cuthbert. An application for listed

building consent has been submitted by the Church Commissioners' Officer who is overseeing the transfer of Church Kirk to the Trust. The Bell adviser has been consulted and has no objection to the removal of the bells. The application was recommended with the proviso that Listed Building consent is received from the local authority.

I am satisfied that the mistaken reference to St James, Over Kellet is a clear misnomer (caused by confusing the name of the church in Church Kirk with that in Over Kellet) which does not affect the substance of the proposal.

3. By chance, I had occasion to visit the Grade II\* listed church of St Cuthbert, Over Kellet in May 2021 in connection with a wholly unrelated faculty application - in the event unsuccessful - for the permanent removal and disposal of the doors from the church's wooden box pews: see my judgment bearing the neutral citation number [2021] ECC Bla 4. The village of Over Kellet lies in the north of the County of Lancaster, not far from, and to the south-east of, the town of Carnforth, and a little to the east of the M6 motorway. The church is C16, with early C13 remains; and it was restored between 1863 and 1864, and again in 1909. The church stands away from the centre of the village, to its south, and it is surrounded by fields. Clearly, Over Kellet is some distance from Church Kirk.

4. The Church Kirk Regeneration Trust (the **Regeneration Trust**) are in negotiations to acquire the church of St James. According to the Statements of Needs and of Significance submitted in support of this faculty application, the Regeneration Trust have no need of the bells, and they will not be rung if they are left in place at St James's Church. However, the bells will be refurbished, and rung regularly, if they are removed to St Cuthbert, Over Kellet. It is acknowledged that there will be some harm to the cultural significance of the church building at Church Kirk, as a place where the bells were once rung regularly, because there will no longer be any opportunity for the local community to hear the bells. However, it is said that this harm is mitigated by the fact that the bells will not be rung if they remain in place at St James; and it is balanced by the consideration that the bells will be rung regularly, and treasured, at the church of St Cuthbert in Over Kellet.

5. The Chair of the Regeneration Trust has written to the Church Commissioners stating that:

The Trustees' position has always been that the bells shall remain in the church until a reasonable decision is taken on their safe future. That it is highly likely that at some stage they will be removed to gain access to the top of tower. The bells completely hinder access to the top of the tower and its vista which is the main asset to [the] building.

The Trust does not strongly object to the bells being removed and discussed various options last year should a future decision be made on the tower's regeneration.

6. The Keltek Trust are a UK charity, registered as such in February 1997, after several years of informal operation, whose purpose is to relocate second-hand and redundant church bells. They have generously offered a grant of £10,000 to fund the removal of the ring of eight bells from the closed church of St James, Church Kirk provided the Diocese of Blackburn offer the bells, and their fittings and bell-frame, free of charge, to St Cuthbert, Over Kellet.

### The church building

7. According to the entry at page 228 of the current (2<sup>nd</sup>) edition of the volume of *Pevsner's Buildings of England for Lancashire: North* (edited by Clare Hartwell and Nikolaus Pevsner in 2009), Church (also called Church Kirk) is “*a muddle of busy roads*” which merges with Accrington to the east and Oswaldtwistle to the south, in the south-east of the County of Lancaster. The older part is in a loop of the Leeds and Liverpool Canal. This is the place where Robert Peel, grandfather of Sir Robert, started his calico printing works, which stood north of the church of St James. This church stands nicely away from the centre of the little town on an ancient site traditionally associated with St Oswald. The church is listed Grade II\* and is situated within the Church Canalside Conservation Area.

8. The church of St James was first listed on 9 March 1984. The listing description reads:

Church; late medieval tower, nave 1804-5, chancel 1895-6. (Tower under repair following fire, 1983). Mostly coursed sandstone, with slate roof. Embattled west tower of uncoursed roughly-hewn blocks has diagonal (west) and angle (east) buttresses, dripcourses above and below the belfry, low rectangular west door with moulded jambs and lintel, and a hoodmould, a 3-light Perpendicular window with a gabled hoodmoulds, similar but smaller openings to 3 sides of belfry (clock on 4th side), and various small single-light openings. Nave of 5 bays, 2 storeys, all windows round-headed with impost and keystones, containing later ogival-headed wooden tracery; chancel is rock-faced, buttressed, 3 bays, with arched and traceried windows. Interior: 3-sided gallery with traceried panels, carried on octagonal iron columns with panelled faces and decorated capitals; at west end a reflected pair of staircases to gallery; flat ceiling; 2 Morris windows (4 Evangelists) on south side; late-medieval octagonal font with blank shields in faces; panelled benches with varied carved tracery on the ends.

9. The eight bells were installed in St James, Church Kirk in 1989 following the disastrous fire of 1983. They were originally cast by Warner & Sons of Cripplegate, London in 1865–7; and they were introduced into St James from Pendlebury where, in 1936, they had been re-tuned and re-hung on metal stocks by John Taylor & Co of Loughborough, who will be undertaking the work of removing the bells and re-installing them at Over Kellet.

### The petition

10. The DAC have recommended the proposal for approval by the court. They have advised that the proposal is not likely to affect the character of the church as a building of special architectural or historic interest.

11. The usual public notices have only been displayed on the two principal external doors, and not inside, the church building. That is because the church is closed and its interior is not accessible to the public. These notices have obviously come to widespread public attention because they have generated no fewer than 13 separate objections. Each of the objectors has been served with written notice in accordance with rule 10.3 of the Faculty Jurisdiction Rules 2015 as amended (the **FJR**), inviting them to become a party opponent to the proceedings by serving on the petitioner, and sending to the Registrar, particulars of objection in Form 5.

However, none of the objectors has elected to become a party opponent to these faculty proceedings. I have taken all of the objections into account in reaching my decision.

12. Since this is an unopposed faculty petition, I am satisfied that it is expedient in the interests of justice, and in furtherance of the overriding objective of the FJR, for me to determine this petition without a hearing, and on the basis of the written and illustrative material that has been uploaded to the online faculty system and the further material that has been placed before the court. In light of the subject-matter of this faculty application, I did not consider that it would be of any assistance for me to view the church building at Church Kirk. In determining this faculty application, I have had regard to all of the objections that have been submitted to the Registry.

*Further material*

13. The DAC's Bells Adviser has commented that at present the church at Over Kellet has a derelict set of three bells, and has no bells suitable for change ringing. This proposal will therefore involve training a band from scratch. The Lancashire Association of Change Ringers (the **LACR**), which represents ringers in this area, is aware of the project and is supportive of it. The tower captain at Silverdale, one of the churches with bells closest to Over Kellet, has offered to help teach ringers. The idea is that the installation of a ring of eight bells will provide an extra church activity which will contribute both to the life of the church and to the community it serves.

14. The quotation from John Taylor & Co notes that with the nearest ringable bells to Over Kellet being located at Melling, Hornby, and Morecambe, the LACR has identified that its Lancaster branch is in very great need of a ring of bells that are easily accessible for training. The location of Over Kellet to major road networks, and the newly installed bells, would make it an ideal facility for the training of new bellringers. The quotation also notes that "... *it has been proven that by installing ringing peals of bells in churches where there were none in use, congregations have grown and an extension to outreach has developed*".

15. One of the churchwardens of St Cuthbert's, Over Kellet has written to the petitioner stating that:

St Cuthbert's does not have a tradition of bell ringing as the three bells do not form part of a normal musical scale.

Although the current three bells were rung regularly a number of years ago this had to be stopped because they became unsafe, and we have now been told for safety reasons they will have to be removed.

There is great interest and enthusiasm in the village to use this opportunity to install a ring of 8 bells and for residents to learn to ring them, as well as teams of visiting ringers. When the project was launched on 5 June in front of a packed church, 36 residents took the opportunity of climbing the tower to view the existing bells and many expressed interest in being involved in the project and wishing to learn to ring. The headteacher of the village school is keen for older pupils to have the opportunity to learn bell ringing. The President of the Lancashire Association of Change Ringers feels Over Kellet would become an important centre for visiting teams of ringers and has

confirmed that the Association would provide the support needed to train a new band of ringers from local residents and school children.

The project also has the enthusiastic support of the Parish Council and the Duchy of Lancaster.

16. The churchwarden has provided a copy of the eight-page, illustrated booklet which was produced for the launch of the Over Kellet Jubilee Bells Project. He asserts that this confirms the local enthusiastic support for this project to proceed. The booklet announces

In the 70<sup>th</sup> year of the reign of Her Majesty, Queen Elizabeth II, St Cuthbert's Church, Over Kellet, is launching an exciting commemoration project to install a ring of eight bells in the tower.

The booklet explains the background to the project as follows:

St Cuthbert's Church, Over Kellet, sits on a hill, and from the tower there are views over Morecambe Bay, the Lake District fells and Ingleborough in the Yorkshire Dales. It is on the very outskirts of the village, but hearing the bells ringing on a regular basis will bring it into the heart of village life. It will provide the opportunity to bring together residents of all ages, but in particular young people, as potential bellringers.

At the moment, St Cuthbert's has three bells, one of which is dated 1499 and, although it has a preservation order on it, it is no longer usable.

The second bell is dated 1664 and the third one 1824. These two bells are usable but need re-tuning. The wooden frame in which they are currently hung is unsafe and in need of replacement. The bells were last rung in celebration of the Queen's 90th birthday in 2016 and were condemned soon after that.

If nothing is done, a future Parochial Church Council (PCC) will need to remove the bells for safety reasons. The present-day cost of this would be in the region of £20,000, which would need to be met by church funds as there is very little likelihood of any outside funding being available for this work. Leaving this financial liability would be a very negative approach and leave no legacy of bells at St Cuthbert's.

St Cuthbert's Church is very fortunate to have been offered, free of charge, the bells of the closed Church of St James at Church Kirk near Accrington (subject to faculty and listed building consent). It will be necessary for funds to be raised for preparation of St Cuthbert's tower and for the bells to be rehung in new sturdy frames.

An inspection of St Cuthbert's tower, undertaken by structural engineers in November 2021, concluded that a new ring of eight bells for full-circle ringing is feasible from a structural point of view and will not cause any significant adverse effects on the tower fabric. The eight Church Kirk bells, slightly remodelled, will fit into the tower on two levels, a five and a three, and the tower is sufficiently robust to allow these to be rung safely. In addition, the 1499 existing bell would be re-hung separately to allow it to be rung

individually as a service bell; because of the preservation order on it, it must be retained.

The booklet clearly states that:

The project will be funded solely by grants and fund-raising. Only when the full cost has been pledged will the project proceed.

17. Before I proceed to summarise the objections, it is convenient for me to set out the legal framework by reference to which this faculty petition falls to be determined.

The legal framework

18. Since the church of St James, Church Kirk is no longer being used for ecclesiastical purposes, the ecclesiastical exemption from the requirement for the local planning authority to give listed building consent before any works can lawfully be carried out to the building no longer applies: see s. 60(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Listed building consent is therefore required for the removal of the church bells. Since the building remains subject to the faculty jurisdiction, however, a faculty is also required for the removal of the bells. A faculty is a permissive right to effect some alteration to a church building or its contents. The grant of a faculty does not require the works thereby authorised to be undertaken; it merely renders them lawful if and when they are undertaken.

19. As the church of St James, Church Kirk is a Grade II\* listed building, this faculty application falls to be determined by reference to 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 by that Court's later decisions in the cases of Re St John the Baptist, Penshurst (2015) 17 Ecc LJ 393 at paragraph 22 and Re St Peter, Shipton Bellinger [2016] Fam 193 at paragraph 39). These questions are:

- (1) Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?
- (2) If not, have the petitioners shown a sufficiently good reason for change to overcome the ordinary presumption that, in the absence of good reason, change should not be permitted?
- (3) If there would be harm to the significance of the church as a building of special architectural or historic interest, how serious would that harm be?
- (4) How clear and convincing is the justification for carrying out the proposals?
- (5) In the light of the strong presumption against any proposals which will adversely affect the special character of a listed building, will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm?

20. When considering the last of the Duffield questions, the court has to bear in mind that the more serious the harm, the greater the level of benefit that will be required before the proposed works can be permitted. This will particularly be the case if the harm is to a building which is listed Grade I or II\*, where serious harm should only exceptionally be allowed. These questions provide a convenient formula for navigating the considerations which lie at the core of

adjudicating upon alterations to listed places of worship, namely a heavy presumption against change, and a burden of proof which lies upon the petitioners, with its exacting evidential threshold. Since the judgment of Chancellor Eyre QC (in the Diocese of Lichfield) in Re St Chad, Longsdon [2019] ECC Lic 5 (at paragraph 11) and my own judgment (in the Diocese of Oxford) in Re St Peter & St Paul, Aston Rowant [2019] ECC Oxf 3, (2020) 22 Ecc LJ 265, a practice has also developed of inquiring whether the same, or similar, benefits could be achieved in a manner less harmful to the heritage value of the particular church building concerned. At paragraph 7 of my judgment in the latter case I said the following:

In applying the Duffield guidelines, the court has to consider whether the same or substantially the same benefit could be obtained by other works which would cause less harm to the character and special significance of the church. If the degree of harm to the special significance which would flow from proposed works is not necessary to achieve the intended benefit because the desired benefit could be obtained from other less harmful works, then that is highly relevant. In such circumstances, it would be unlikely that the petitioners could be said to have shown a clear and convincing justification for proposals which would, on this hypothesis, cause more harm than is necessary to achieve the desired benefit.

21. In the present case, the Duffield guidelines fall to be applied in the context of a church that has been closed for regular public worship, but where the ultimate objective of the proposals is to benefit another church that is still open for worship and its local community, albeit this church is located some distance away from the church which is the subject of the faculty application. I have been unable to identify any case law authority that may guide me in this situation.

#### The objections

22. The objections that have been raised to the proposal to remove the bells from the church of St James may be summarised as follows:

(1) The bells were acquired by the church as replacements for those lost in the disastrous 1983 fire. This was an important moment in the history of the church, and the replacement bells are a highly significant asset. They are part of the heritage of St. James's Church, and they help to tell its story. The fact that they are replacements does not lower their significance. They are historic objects of great interest in their own right, and they add enormously to the historic character of the building. St James's Church is a significant historic building; and the bells, whilst they are a relatively recent addition in its long history, are important to its story. The removal of the bells would undermine the purpose of saving and restoring the church building, harming its character and significance, and rendering it mute. By relocating the bells to another parish, another part of this community's local history will be overlooked and eroded away. There are fears that the church building will be further stripped of its assets if this proposal is allowed to proceed.

(2) Removing the bells would severely harm the overall completeness of the church, leaving a serious gap in the quality of the historic fabric and fittings, and stripping the church of its history and value. This could lead to the downgrading of the Grade II\* outstanding status to that of a Grade II building. This would make the church significantly less interesting, and would have a major impact on the ability to attract heritage grants, which are targeted at Grade II\* buildings. It

would also lower the Church of England's statutory duty with regard to the building. A Grade II building is ineligible for Churches Conservation Trust involvement.

(3) There is a wish to reinstate regular bellringing, which was stopped by the closure of the church. There is a vision to have the bells ringing out across the area, drawing attention to the building, and helping to promote it.

(4) The bells are an important part of the outreach to the local community, and this aspect of the listed building should be protected and restored. The church's best asset should not be stripped out as is presently proposed.

(5) Local authority listed building consent is required for the bells' removal.

(6) The cost of removing the bells is disproportionate for an unnecessary project when the building is in dire need of other works, such as rewiring after the electrics were condemned in 2021.

(7) The bells were paid for by public subscription and so they are of great local importance to the people of Church Kirk, their families, and particularly those who helped to raise the funds for their purchase.

#### Analysis and conclusions

23. I am not satisfied that the proposal to remove the bells will cause any harm to the significance of this closed church as a Grade II\* listed building of special architectural and historical interest. This is because these bells were introduced into the church only relatively recently in its history, and they form no part of the original fittings or fabric of the church. They were not in place when the church was first designated as a Grade II\* listed building. I find that the removal of the bells will present no threat to the church building's present listed status because all of the features identified in the listing particulars will remain even if the bells are removed.

24. I therefore move to the second of the Duffield questions: Has the petitioner shown a sufficiently good reason for the proposal to remove the bells so as to overcome the ordinary presumption, in faculty applications, that change should only be permitted for some good reason? In my judgment, the petitioner has clearly discharged this burden.

25. As Charles Mynors has observed, at paragraph 13.7.2 of his work on Changing Churches (2016): "Bells are a traditional part of a parish church – largely unseen except by those who ring them, but heard by many and appreciated by most." By Canon, every church must be provided with at least one bell "to ring the people to divine service". But in addition, the ringing of a full peal of church bells is a means of announcing the presence of a worshipping congregation to the church's local community and of celebrating great events in the life of the church and the nation. Bell-ringing is inspiring and pleasing to the ear.

26. The effect of this proposal, if and when fully implemented, will be that a full peal of eight bells will be removed from a closed church to a fully functional church, albeit some distance away (but in the same Diocese), where they can be heard and enjoyed, not only by a new local community, but used to encourage, and grow, a new generation of bell ringers. I appreciate that the loss of the opportunity to hear, and ring, these bells will be keenly felt by the local community in Church Kirk. But the view of the Chair of the Regeneration Trust is that the bells

are an impediment to their proposals for the closed church, rather than a benefit. Even if the bells were to ring over Church Kirk, this would no longer be to call people to worship in the church because it is now closed for public worship. In my judgment, the consistory court should favour a proposal that will lead to bells being rung to signify the presence of a worshipping church in the community, and to invite local people to worship there, over one that does not. As I explained (when sitting as the Deputy Chancellor of the Diocese of Ely), at paragraph 81 of my substantive judgment on the faculty application in *Re Jesus College, Cambridge* [2022] ECC Ely 2, independently of the provisions of s. 35 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 (headed *Duty to have regard to church's purpose*), when exercising the faculty jurisdiction a chancellor should have due regard to the role of the church as a local centre of worship and mission. I also note, and bear in mind, the observation by the Court of Arches (Sir John Owen, Dean of the Arches, and Chancellors Goodman and Sheila Cameron QC) in *Re St Luke the Evangelist, Maidstone* [1995] Fam 1 (at page 8) “... that a church is a house of God and a place for worship. It does not belong to conservationists, to the state or to the congregation but to God”. St James, Church Kirk’s time as an active worshipping church is over, and it is now to be a secular place for the community; but its bells can still serve to enhance the worship and mission of another active church, albeit in another part of the Diocese of Blackburn.

27. Lest I am wrong in my assessment of the harm that will be caused to St James, Church Kirk by the removal of its ring of eight bells, I move to consider the remaining *Duffield* guidelines. Assuming that some harm will be caused to the significance of the building as one of special architectural or historic interest, I must first assess how serious that harm would be if the bells were to be removed. For the reasons I have already given (at paragraph 23 above), I am satisfied that removal of the bells will cause only slight harm to the significance of the building as one of special architectural and historic interest. Everything in the listing description will remain, unaffected by the removal of the bells.

28. Next, I must consider how clear and convincing is the justification the petitioner has put forward for removing the bells. In my judgment, the petitioner has demonstrated, with clarity and conviction, that the bells should be removed for the reasons I have set out at paragraph 26 above.

29. Finally, and bearing firmly in mind both the strong presumption against any proposals which will adversely affect the special character of a listed building, and that serious harm to a church listed as Grade II\* should only be permitted in exceptional cases, I must consider whether the resulting public benefits (in terms of pastoral well-being, opportunities for mission, and putting this closed church building to alternative community uses) will outweigh any resulting harm to the significance of the church that will follow from the removal of the bells. In doing so, I must also consider whether the same, or substantially the same, benefits could be obtained by other works which would cause less harm to the character, and the special significance, of this closed church building.

30. Clearly, the complete removal of the ring of eight bells is an all-or-nothing proposition. There is no lesser alternative: either they all stay or all must go. In my judgment, the benefits (as summarised at paragraph 26 above) of removing the bells from the closed church of St James, Church Kirk, to St Cuthbert, Over Kellet, far outweigh any slight harm that their removal will cause to the former building.

31. As for the points made by the objectors to the proposed removal of the bells:

(1) As the objectors themselves acknowledge, the bells are a relatively recent addition to the church building in its long history. Nor is there any objective reason to fear that the church building will be stripped of any of its other assets if this proposal is allowed to proceed.

(2) There is no good reason to fear that the removal of the bells will lead to any downgrading of the Grade II\* listing of this closed church building.

(3) Although some may wish to reinstate regular bellringing at the closed church building, this would not appear to be a view shared by the Chair of the Regeneration Trust. Even if the bells were to ring out once more across Church Kirk, they would no longer be drawing attention to an open and worshipping church building and community, nor would they be helping to advance its mission.

(4) The bells are no longer an important part of the church's outreach to the local community, nor, in light of the listing description, can they sensibly be viewed as the building's "best asset".

(5) This faculty will not take effect unless local authority listed building consent is obtained for the bells' removal.

(6) The cost of removing the bells is to be borne by a generous third party charitable donation.

(7) Even though the bells were paid for by public subscription, and so are of great local importance to the people of Church Kirk, their families, and particularly those who helped to raise the funds for their purchase, the fact remains that, with the closure of the church building to public worship, their role as functioning church bells has come to an end at Church Kirk. It is far better that they should be removed to an active, worshipping church, within the same Diocese, where they can continue to ring out to announce Christ's presence to a new flock.

32. In conclusion, I should emphasise the nature of, and the limitations upon, this court's decision. First, this faculty is entirely permissive: It entitles the Diocese to remove the bells, rendering such removal lawful. It does not require the bells to be removed. Whether or not the bells are to be removed is a matter entirely for negotiation between the Diocese, the Church Commissioners, and the Regeneration Trust. Secondly, this faculty will not take effect unless and until local authority listed building consent has been obtained for the bells' removal. Thirdly, I propose to direct that the bells are not to be removed unless and until the Diocese are satisfied that sufficient funds have been raised or secured to enable the Over Kellet Jubilee Bells Project to proceed; and the church of St Cuthbert, Over Kellet have obtained a faculty authorising the installation of the bells in that church. Because of my involvement in, and knowledge of, the issues raised by any such faculty petition, I reserve the determination of such petition to me (if available). I will also allow three years for the works to be completed in order to allow sufficient time for these condition to be complied with.

### Disposal

33. For these reasons, the court will grant a faculty for the removal of the bells as sought. The faculty will be subject to the following conditions:

(1) This faculty will not take effect unless and until local authority listed building consent has been obtained for the bells' removal.

(2) Before any of the bells are removed from the closed church of St James, Church Kirk:

- (a) The Diocese are to be satisfied that sufficient funds have been raised or secured to enable the Over Kellet Jubilee Bells Project to proceed.
- (b) The church of St Cuthbert, Over Kellet are to have obtained a faculty authorising the installation of the bells in that church. The determination of such petition is reserved to the Chancellor (if available).
- (c) Photographic records and plans of the bells and their bellframe are to be taken and made and deposited in the parish records, the DAC's records, and the local Historic Environment Record for future reference by scholars and the local community. In order to comply with this condition, reference should be made to Historic England's Understanding Historic Buildings: A Guide to Good Recording Practice (May 2016).

I will allow three years for the works to be completed so as to allow sufficient time for these condition to be complied with.

34. In the usual way I will charge no fee for this written judgment. The petitioner must pay the costs of this petition, including any additional fees incurred by the Registry in dealing with this application.

35. In conclusion, I must also apologise to all interested parties for the length of time it has taken me to produce this judgment.

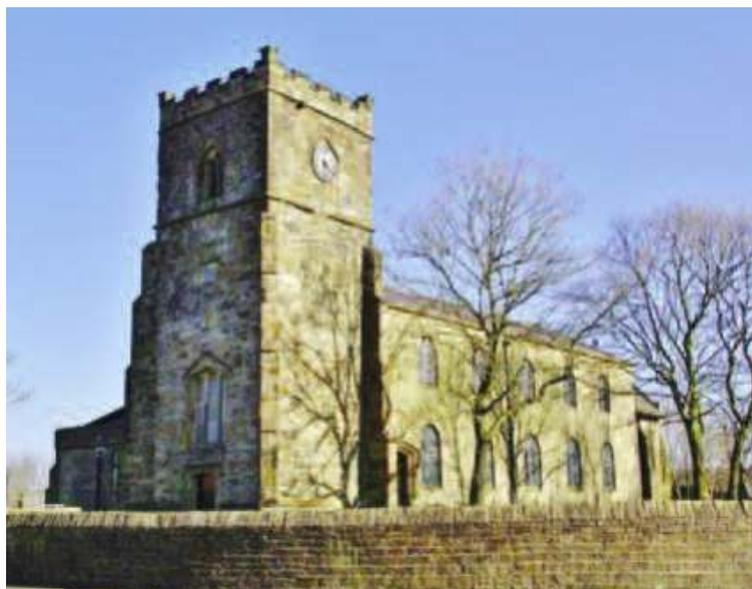
*David R. Hodge*

The Worshipful Chancellor Hodge QC

The Eighth Sunday after Trinity 2022

7 August 2022

The exterior of St James, Church Kirk



The exterior of St Cuthbert, Over Kellet

