



*Faculty – Grade II listed, town centre church (1850-1, extended 1859-60) not within a conservation area – Installation of patio area with benches in churchyard — DAC recommending the proposal – Objections from three parishioners due to concerns about security, anti-social behaviour, noise, and litter – No-one choosing to become a party opponent so faculty application formally unopposed — Faculty granted*

**Application Ref: 2026-123662**

**IN THE CONSISTORY COURT**  
**OF THE DIOCESE OF OXFORD**

Date: Saturday, 9 May 2026

**Before:**

**THE WORSHIPFUL CHANCELLOR HODGE KC**

**In the matter of:**

**Holy Trinity, Bracknell**

**THE PETITION OF:**

**Russell Gary Goodburn and**

**Thomas Leslie Allen**

(Churchwardens)

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

Objections were received to this petition from three parishioners but none of them has chosen to become a party opponent

The following cases are referred to in the judgment:

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

*Re St Laurence, Combe* [2022] ECC Oxf 5

## JUDGMENT

### *Introduction and background*

1. Holy Trinity, Bracknell, in the Archdeaconry of Berkshire, is a Grade II listed, town centre church (constructed in 1850-1, and extended between 1859 and 1860). It is not situated within a conservation area. By an online faculty application, dated 7 March 2026, the churchwardens apply for a faculty authorising the installation of a new 3m by 4.2m Yorkstone patio area, with three fixed benches, near to the existing choir vestry entrance to the church. The proposal has the full support of the Parochial Church Council.

2. According to the Statement of Needs, Holy Trinity Church is situated just outside the busy town centre, offering a peaceful and reflective space amid the activity of daily life. Throughout the day, people enter the churchyard to eat their lunch, enjoy a moment of quiet, or simply sit and appreciate the surroundings. The parish warmly encourage this use of the churchyard, which reflects their inclusive church ethos: seeking to meet people where they are, and to offer a welcoming presence within their community. The proposed patio will provide a safe and inviting area where people can gather comfortably. Its design will encourage conversation and connection, with benches positioned so as to allow individuals to sit both near to, and opposite, one another, thereby fostering a sense of community. The parish believe that the proposed patio will not only enhance the appearance and accessibility of the churchyard but also encourage greater use of the space. In turn, this may lead to increased interest in the church itself, and create natural opportunities for church members to engage in conversation with those enjoying the churchyard.

3. The Diocesan Advisory Committee (the **DAC**) has recommended these proposals for approval by the court. Its Notification of Advice states that it supports this enhancement of the churchyard, which will serve to invite people to spend time there and enjoy it. In the DAC's opinion, the work proposed is not likely to affect either the character of the church as a building of special architectural or historic interest, or the archaeological importance of the church, or any archaeological remains existing within the church or its curtilage.

4. The usual public notices were duly displayed between 8 March and 7 April 2026. These provoked letters of objection from three parishioners. Written notice was sent to each of the objectors in accordance with rule 10.3 of the Faculty Jurisdiction Rules 2015, as amended (the **FJR**). No responses have been received from any of them. This faculty petition is therefore formally unopposed. However, in accordance with FJR 10.5 (2), I have taken the letters of objection, and the petitioners' comments upon them, into account when reaching my decision on this petition.

5. 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 application without a hearing, and on the basis of the written and illustrative material that has been uploaded to the online faculty system, and is available to the court. Doing so will save expense, and enable the court to deal with the case proportionately, expeditiously and fairly. I have not found it necessary to visit this church. That is because the documents uploaded to the online faculty system in support of the petition include a drawing and two photographic images of the proposed patio area. I have included these at the end of this judgment.

### The objections

6. Since the objectors have not elected to become parties opponents to this petition, I will not cause them any potential embarrassment by including their names in this judgment.

7. One of the objectors states that she is on the church electoral roll. She objects to the present proposal on the basis of its location. Whilst she supports the creation of an inviting outdoor space, she is concerned that the present proposed location may compromise the security of personal belongings kept inside the vestry. Members of the church are said to leave valuable items, such as phones, keys, cards and cash, in the vestry whilst attending services or other activities within the church. Although every effort is made to secure the vestry door, there are occasions when it may inadvertently be left unlocked. Placing a bench or seating area directly facing the vestry door could increase the risk of opportunistic theft as anyone sitting there would have a clear line of sight to the door and any comings and goings. The enhancement of the church grounds is greatly appreciated, and the patio area would be welcome in an adjusted location that maintains both accessibility and security. Therefore the parishioner objects to the current proposal.

8. Another of the objectors states that she is on the church electoral roll and a member of the church choir. She asserts that other members of the church have raised objections to the proposed patio area, and she wishes to support their objections. Siting the area directly outside the door to the church vestry could cause a problem for church members wishing to enter or leave the church through that door. Female members often need to use this access, and they are often alone. Such 'picnic' seating could be used by groups (or gangs) of people and, as the area is quite hidden from the road and paths, could encourage alcohol and drug abuse, which is known to have taken place often in the churchyard previously. Litter would inevitably increase, and lead to growth in the rodent population. Adding such a seating area would not make visiting the memorial garden a better experience.

9. The third objector lives in the parish and is also on the electoral roll. He objects on the following grounds:

(1) The proposal could result in a threat to people when unlocking the choir vestry door who would have their backs to people on the patio, and so be unaware of anyone approaching from behind, with the intention of gaining access to the church. This is said to have happened in the past when people outside the church see someone opening the choir vestry door and rush up to enter the church before the door can be closed. This could lead to a potentially very dangerous attack.

(2) The position, noise and litter would significantly detract from the preferred quiet and peace of the memorial garden sought by visiting families.

(3) The memorial garden, which is growing with frequent new interments of ashes, would be restricted in expansion by the immediate adjacent location of the proposed patio.

(4) An inevitable increase in litter will lead to an unwanted and undesirable increase in rats running across the area. There is already a significant rat population.

(5) The proposed patio area would not be easily visible from nearby paths or roads and so would encourage, and increase, the existing covert use of drugs, with the resulting needles and candles being left lying around as evidence.

**10.** In response to an invitation from the Registry clerk, the petitioners have responded to these objections as follows: The first objector raises concerns about the security of the vestry, suggesting that individuals using the patio area would have a clear view inside, potentially putting personal belongings at risk. The petitioners say that they are not aware of any instances of unauthorised access to the vestry, or the theft of personal items. The vulnerability of an open vestry has long been recognised and, accordingly, the vestry door is routinely locked during services, and whenever the church is in use.

**11.** The second objector expresses concern that the presence of people on the patio may feel intimidating to those accessing the vestry. There is no evidence, or history, to support such behaviour. The vestry entrance is fitted with motion-activated lighting, and anyone with concerns about accessing the vestry alone can follow a ‘lone working’ approach by arranging for another person to be present. Given that the objector is a choir member, this should be straightforward to organise. Concerns are also raised regarding litter and rodents. Litter can arise regardless of the presence of a patio area. However, should the patio be constructed, a litter bin will be installed, and existing litter patrols can be increased if necessary. The petitioners acknowledge that there is an existing rat infestation within the church grounds. This reflects a wider issue across Bracknell town centre. While the consumption of food on any patio area may marginally increase this risk, it remains a management responsibility that the parish are actively addressing. Current baiting and trapping methods have not yet proved to be effective; and the parish are exploring more robust prevention and eradication measures. The petitioners state that it is important to note that not proceeding with the patio would not materially reduce the existing problem.

**12.** The third objector also raises concerns about potential intimidation when accessing the vestry. This has already been addressed. Additional concerns relate to increased noise and litter. As noted, litter will be managed appropriately; and the petitioners do not anticipate that the patio area will generate significant noise. The petitioners do not consider the objection regarding the interment of ashes to be applicable. Areas designated for the interment of ashes are clearly identified; and the proposed patio location does not overlap with these areas. Finally, concerns about illicit drug use are acknowledged. As a town centre church, the petitioners are aware of such issues within the wider area. However, the presence of a patio is unlikely significantly to increase, or to decrease, such activity. The parish continue to work closely with the police in addressing this matter.

**13.** In conclusion, whilst they respect, and have carefully considered, all of the objections raised, the petitioners do not believe that, either individually or collectively, they present sufficient grounds to prevent the installation of the proposed patio.

#### The legal framework

**14.** Since Holy Trinity, Bracknell is a Grade II listed church building, the court is required to have regard to what have become known as the *Duffield* guidelines when determining this faculty application. These are named after the decision of the Court of Arches in the leading case of *Re St Alkmund, Duffield* [2013] Fam 158; and they have been considered, and refined, in later cases. The court must first consider whether the implementation of these proposals would cause any harm to the significance of this church as a listed building of special architectural or historic interest. If so, the court must then consider how serious such harm would be, and how clear and convincing is the justification for carrying out the proposals. The court must bear in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building. The court must ask itself whether the petitioners have demonstrated a clear and convincing

justification for their proposals, in terms of any resulting public benefits which would outweigh any resulting harm. At paragraph 87 of their judgment, the Court of Arches made it clear that in this context, *'public benefit'* includes:

*... 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.*

**15.** As I observed at paragraph 19 of my judgment (in this diocese) in *Re St Laurence, Combe* [2022] ECC Oxf 5, when following the *Duffield* guidance the court must bear in mind that:

- (1) The burden rests on the petitioners to demonstrate a sufficiently good reason for making any changes to a listed church building; and
- (2) The more serious the harm, the greater the level of benefit that will be required before the proposals or works can be permitted.

The court must also consider:

- (3) Whether the same, or substantially the same, benefits could be obtained by other proposals or works which would cause less harm to the character and special significance of the church building. As I pointed out in my judgment (also in this diocese) in *Re St Peter & St Paul, Aston Rowant* [2019] ECC Oxf 3, (2020) 22 Ecc LJ 265 at paragraph 7:

*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.*

#### *Analysis and conclusions*

**16.** Consistently with the advice of the DAC, I am entirely satisfied that this proposal will not cause any harm to the significance of Holy Trinity as a Grade II listed church building of special architectural and historic interest. Since the answer to the first of the *Duffield* questions is a firm 'No', the ordinary presumption in faculty proceedings in favour of things as they stand is applicable. This can be rebutted more or less readily, depending on the particular nature of the proposals. I am satisfied that the petitioners have rebutted the presumption in favour of the status quo in the present case. This proposal will enhance the existing churchyard, making it more welcoming to members of the local community, and encouraging people to spend time there and enjoy it. This in turn will serve to improve the church's visibility in the locality, and thereby help to advance the church's mission. I am satisfied that the petitioners have adequately answered the several concerns raised by the objectors about issues relating to security, anti-social behaviour, noise, and litter. I am satisfied that these are entirely manageable. In any event, these are matters more appropriately to be considered, and addressed, by the Parochial Church Council, who are on the spot, rather than the Chancellor, living and working many miles away. These are pre-eminently considerations that fall within the margin of appreciation enjoyed by the incumbent minister, the churchwardens, and the Parochial Church Council, and with which the Chancellor should be reluctant to interfere unless it can be demonstrated that their approach is irrational, or capricious, or influenced by irrelevant considerations, or a failure to take relevant matters into account. None of those matters arise in the present case.

Disposal

17. Overall, therefore, I am satisfied that the petitioners have fully made out their case for the proposed patio area. For these reasons, I have arrived at the clear conclusion that I should grant this faculty application. I propose to impose the following conditions:

(1) Although it is unlikely in this case, in the event of the discovery of any articulated human remains or significant archaeological deposits, the advice of the Diocesan Registrar must be sought and observed. No spoil is to leave the churchyard; and any charnel must be reburied with all due reverence.

(2) If they have not already done so, the parish are to consult with the local planning authority to check whether any planning permission is required for this proposal. If it is, they are to apply for any necessary planning permission; and they are to comply with any planning conditions the local planning authority may impose.

(3) If they have not already done so, the parish are to notify their insurers of this proposal; and they are to comply with any recommendations or requirements that they may make or impose.

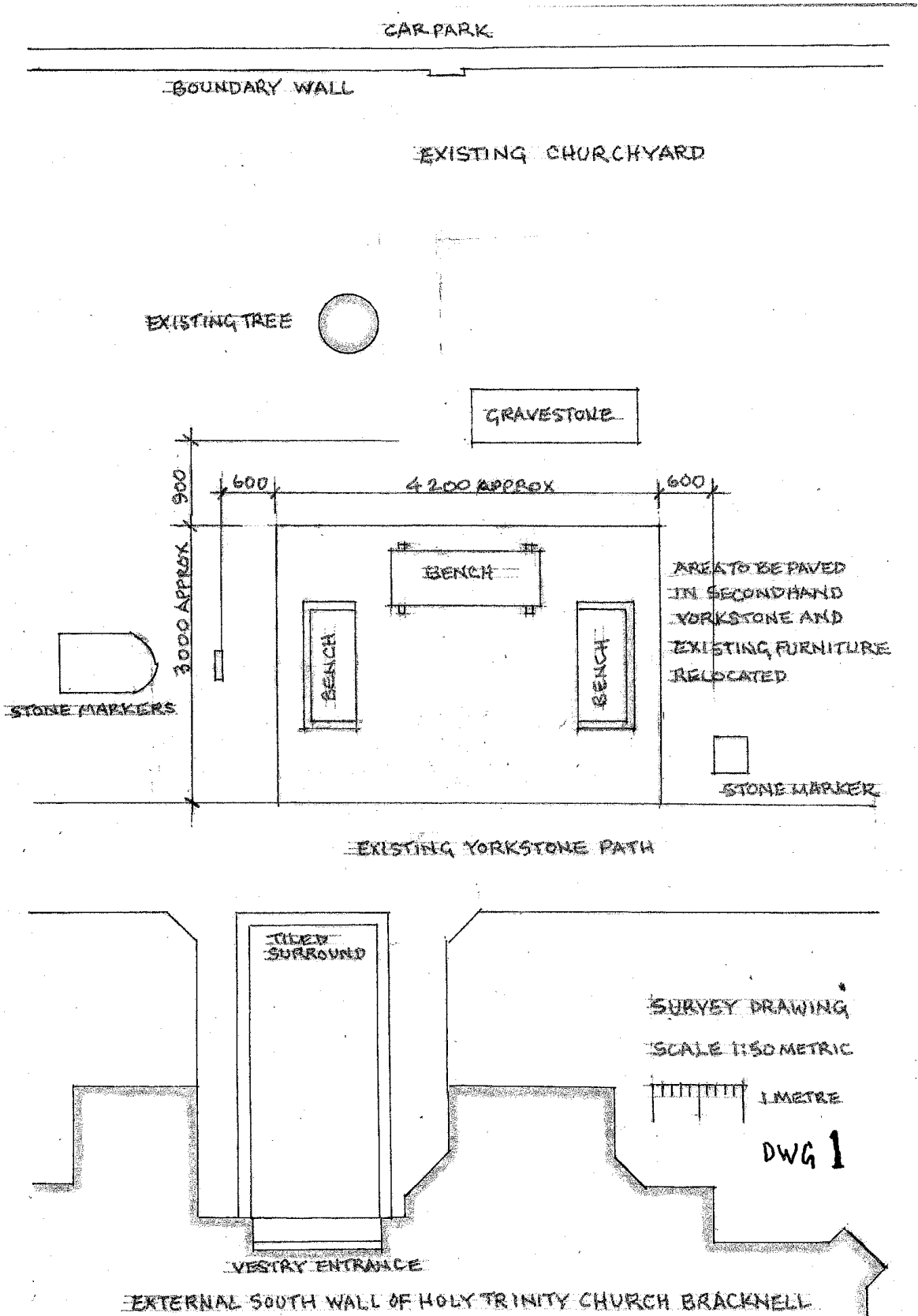
I will allow six months for the full implementation of this faculty.

*David R. Hodge*

The Worshipful Chancellor Hodge KC

9 May 2026

Drawing of proposed patio area



Proposed patio area looking east



Proposed patio area looking south

