

**In the Consistory Court of the Diocese of Ely**

**In the Matter of a Faculty Petition**

**In the Parishes of**

**Holy Sepulchre Cambridge (including the former parishes of St Andrew the Great Cambridge and All Saints Cambridge)**

**Holy Trinity Cambridge**

**Christ Church with St Andrew the Less Cambridge**

**St Benedict Cambridge**

**St Edward Cambridge**

**St Botolph Cambridge**

**St Clement Cambridge**

**St Mary the Great with St Michael Cambridge**

**St Mary the Less Cambridge**

**and**

**St Paul Cambridge**

**Guy Belcher**

**Petitioner**

**PRELIMINARY MATTERS**

1. The petitioner, Guy Belcher, is the Biodiversity Manager employed by Cambridge City Council (“CCC”). He applies for a general faculty to allow the CCC to carry out works of repair to memorials and stonework, tree work and miscellaneous works as further identified in the application in the paragraphs under the heading “WORKS TO BE COVERED BY THE PROPOSED GENERAL FACULTY” within Mill Road Cemetery (“the cemetery”).
2. The cemetery was closed to any burials by Order in Council on 29<sup>th</sup> September 1949.
3. The CCC has a responsibility for the maintenance and upkeep of the cemetery but would, presently, be required to apply for a faculty to cover the sort of works for which Mr Belcher now applies for a general faculty. The purpose of the general faculty is to cut down on both the administration and cost involved in the CCC having to apply for

individual faculties whilst the churches to which the land belongs keep control of any substantial works which will still require a faculty.

4. Whilst no individual has wanted to become a party opponent, I have received submissions from Claire Martinsen who describes herself as a local resident but who is also, according to its website, the membership secretary of the Friends of Mill Road Cemetery, Emma Caroe a local resident, and from Colin Fenn who is the Vice Chairman of the National Federation of Cemetery Friends (“the National Federation) who accepts that he has no status to make a formal objection to the application for a faculty. As no one has come forward as a party opponent, in my view I should give equal weight and consideration to all the points raised by them without concerning myself with whether they have a right to formally object to the faculty.
5. The points they raise are, firstly, as to whether the CCC require faculty approval to carry out any works to the cemetery, secondly to the status and power of the parishes to interfere with the works undertaken in the cemetery and, thirdly, to some of the work that the CCC intend to carry out under the general faculty.

#### **THE LEGAL POSITION**

6. I am very grateful to Claire Martinsen for her thorough and careful work in researching the complex history of the ownership and status of the cemetery. Whilst I do not intend to summarise her findings in any detail, because much of it, although of historical interest, is not directly relevant to the application, I have considered her research which is supported by the submissions on behalf of the National Federation. She identifies that:
  - (a) After discussions between several parishes and a committee having been formed to advance the project, the cemetery was purchased by a deed of conveyance executed on 20<sup>th</sup> August

1847. The ground was consecrated, the cemetery being divided into separate plots to allow the churches who purchased the land to use their areas as extensions of their individual churchyards;

- (b) Over the years there have been a number of groups formed, or purportedly formed, to coordinate the approach of the various churches to the use of the cemetery or to take on responsibility for the upkeep of the cemetery. Some of those bodies had no legal basis for their existence. That included one group which identified itself as trustees and which it would seem had no legal entitlement to act on behalf of the Parochial Church Councils ("PCCs") of the various churches that owned the land comprising the cemetery;
- (c) The cemetery was, in part, closed for burial by Order in Council on 12<sup>th</sup> December 1904 and the remainder of the cemetery was closed on 29<sup>th</sup> September 1949 pursuant to the Burial Grounds (Cambridge) Order 1949;
- (d) Whether CCC took over the maintenance of the cemetery on closure, as they were legally required to do, it is clear that by 1990 the CCC had formally agreed to do so.

#### **THE CONTINUING INVOLVEMENT OF THE PARISHES**

- 7. The closure of the cemetery and the rôle of the CCC in its maintenance does not absolve the parishes of responsibility for the cemetery. The freehold title to the land remains with the incumbents for the time being of the churches which share ownership. Their duties include ensuring that the CCC carry out the necessary work to keep the cemetery safe for use and that it is maintained.
- 8. The cemetery, albeit it is a valuable open space for public use within Cambridge, remains principally a place in which the churches have

buried parishioners, and possibly others who applied by faculty to be buried there. The churches through their incumbents and their PCCs are guardians of the mortal remains of those buried on their land in perpetuity. They should, so far as it is possible to do so, ensure that the areas for which they have responsibility remain places of tranquillity. The Churchyard Regulations (2006) identifies the overriding objective of the Regulations as follows:

“...to ensure that churchyards are kept in decent order so as to show respect for those who have died before us and to comfort so far as is possible all those who have loved ones buried there. Churchyards reflect the sure and certain hope that those buried or whose ashes are interred await the return of Jesus Christ and the life that is to come. Churchyards reflect too the Christian faith of those who have committed, permanently, their friends and/or family to God. It is especially important that each and every person with a loved one buried or interred in a churchyard seeks to have regard to the sensitivities of others in the same position and of other visitors to the church and its churchyard and, to respect the tradition of the churchyard itself.”

9. That responsibility does not cease because the churchyard or cemetery is closed for burial or because a local council has taken on responsibility for maintaining the churchyard after closure.

10. I note that in Mr Fenn’s letter to me dated 21<sup>st</sup> May 2025 he states:

“The site was formally closed and passed to Cambridge City Council for management...”

11. For the avoidance of doubt, the site has never been “passed” to the CCC; only responsibility for maintenance and upkeep has fallen on the CCC.

12. It is for this reason that the parishes through a vote of their individual PCCs have had to show their support for the faculty application made by Mr Belcher. Similarly any application for a permanent or temporary

exhibition in the cemetery would require either a faculty or, possibly an Archdeacon's temporary licence, before it could be staged. The placing of new benches can be permitted under Faculty Jurisdiction with a 'List B' certificate issued by the Archdeacon or other furniture could only be achieved through an application for a faculty, agreed by the individual PCCs and approved by the Chancellor.

13. Whether or not the churches who have joint responsibility for the cemetery pass that responsibility to a committee representing all the churches is a matter for them. That committee would have no power to make decisions on behalf of the individual churches but may recommend to the PCCs what needs to be done. It is then for the individual PCCs to acknowledge their approval to work being done under a faculty by a vote at each of the PCC meetings.
14. As to the responsibilities of the PCCs and the CCC, under s.215 of the Local Government Act 1972 where the CCC has taken on the obligation to maintain the cemetery in good order there is nothing of a mandatory nature left for the PCC to do by way of church maintenance. That does not absolve the PCCs of the various churches from ensuring that cemetery is properly maintained by the CCC and ensuring that the cemetery is treated in accordance with the Churchyard Regulations 2006.

#### **THE PURPOSE OF THE GENERAL FACULTY**

15. The CCC want to be able to carry out maintenance work without resorting to separate applications for a faculty which might otherwise be required. Much of the regular maintenance work which they undertake in the cemetery, such as mowing the grass or cutting back shrubs etc, does not require a faculty. More substantial work to memorials, brickwork, signage and tree felling may or will require a faculty.

16. The application is drafted in a way that will relieve the CCC of obtaining a faculty for the majority of the work which is undertaken but which retains faculty control for the more substantial work which may have a significant affect on the cemetery.
17. I note that the letter dated 23<sup>rd</sup> May 2025 from the CCC to Emma Caroe recognises the need to apply for a faculty for anything other than routine maintenance and hence their request for a general faculty to enable them to continue the current management without the need to submit faculties for individual items.
18. In my judgment the application for a general faculty is unremarkable and there is merit in reducing the need for the Consistory Court to be involved in the process. It recognises the responsibility that has been taken on by the CCC and which they undertake to the benefit of the churches with responsibility for the cemetery and to the benefit of the local community.

#### **SPECIFIC OBJECTIONS TO THE PROPOSED WORKS**

19. In a letter from Emma Caroe to the Registry (undated but received on 6<sup>th</sup> May 2025) she raises legitimate concerns about the closure and elimination of unofficial footpaths. She submits that

“...drastic measures to prevent visitors from wandering off the “official” footpaths would be of huge detriment to the character of this green space and the way in which people are able to experience its natural beauty and its historical and spiritual significance.”

20. The CCC responded to this in their letter of 23<sup>rd</sup> May by confirming that it was not their intention to remove all existing desire paths but to

“...to have the ability to respond to limit new paths forming, particularly if threatening valuable bits of species rich grassland or posing a health and safety issue if crossing hidden grave stones etc. Many new paths formed during Covid and have largely gone unchecked reducing the area of grassland for which

the site is designated for its County significance. If closing a route is deemed necessary we would seek to minimise temporary fencing and signage, using only as a last resort, favouring vegetation management as you suggest.”

21. In my judgment the response from the CCC justifies the course they are proposing to take. Whilst, as Ms Caroe describes it, this is a “green space” it remains first and foremost a cemetery and must be respected as such. I do not detect from their response that they intend to keep visitors to the gravel paths but even if they were proposing to do so, it would be in accordance with their duty to maintain the cemetery. It seems that their primary aim is to protect the area of grassland, something that I am sure the local community would support. If barriers are required to return, to use Ms Caroe’s words, the profoundly beautiful space that the cemetery is, then they are justified in doing so. I also note that in the petitioner’s response to the Registry dated 2<sup>nd</sup> October 2025 was to close “selected routes” and they do not seek to eliminate all routes.

#### **CONCLUSION**

22. The ‘General Faculty’ document which has been drafted by the Parishes’ Committee (but approved by each of the PCCs of the churches whose incumbents retain a freehold title to their part of the cemetery) with input from the CCC provides a sensible way forward whilst the churches retain some limited control over works in the cemetery.
23. I do not consider the path closures, which are designed to return the cemetery to its pre-Covid state and to protect the grassland, to be objectionable.
24. The rôle of the Friends of the Mill Road Cemetery, which I note from their website states that

“The Friends (FOMRC) speak and act with the Parochial Burial Grounds Management Committee, Cambridge City Council and other organisations on behalf of all who care for Mill Road Cemetery.”

25. They have an important rôle to play in that regard and it is clear that their members devote many hours between them to the maintenance of the cemetery. Their desire to get the parishioners of the churches to take part in the work that they do is an initiative to be encouraged.
26. I grant the faculty.

*AJ Leonard*

His Honour Judge Leonard KC  
Chancellor of the Diocese of Ely  
9<sup>th</sup> November 2025