

In the Consistory Court of the Diocese of Blackburn

In the matter of St Mary the Virgin, Goosnargh and

In the matter of a Petition presented on 19th October 2018 by Nigel Catterall, Chair of the Church Fabric Committee

Before: His Honour Judge David Hodge QC, Deputy Chancellor

JUDGMENT

1. This is an application by the Chair of the Church Fabric Committee (with the approval and support of the Team Rector and churchwardens) to create an additional footpath in the churchyard of this fine Grade II* listed C15th/early C16th village church. The proposal has the support of the PCC and has been recommended for approval by the DAC. The local planning authority has been consulted and has no objection to the proposed extension to the existing footpath on the basis that the style, materials and dimensions match those of the existing footpath and no new opening is created in the churchyard boundary wall. The works are to be funded by a donation from a generous petitioner.
2. Public notice of the petition was duly displayed from 22nd November to 22nd December 2018. This produced a written letter of objection from the Cornall Family of Little West Field Farm Goosnargh Lane, Goosnargh. As persons resident in the parish, they are ‘interested persons’ for the purposes of the *Faculty Jurisdiction Rules 2015* (as amended) (‘the *FJR*). Written notice was duly served on the Cornall Family pursuant to *FJR* 10.3 but they have not elected to become a party opponent by serving Notice of Objection in Form 5. The petitioner’s comments on the letter of objection have been received in the form of a letter addressed to the Registry and dated 10th January 2019. Pursuant to *FJR* 10.5 (2) I take account of both the Cornall Family’s letter of objection and the petitioner’s comments upon the points raised by it in reaching my decision.
3. The basis of the Cornall Family’s objection is that the area in question is already very wet and cutting a path across it would turn more water into the graves on the right-hand side of this area which slopes down to the right. The family have a recent family grave in this area which the proposed path would affect. The wall surrounding the back of the churchyard is said to be solid and of sound construction and it makes the area more private, preventing entry to a “wild unkept field”. To preserve this privacy, the Cornall family would prefer the path to run more to the left, towards the top of the slope and near to the cremation area, where the land is flat.
4. The petitioner accepts that the area in question is wet at certain times of the year but that is why it was thought to be a good idea to construct a path to allow safe access to the existing wooden bench. It is not felt that the new path of itself would increase the

amount of water running towards the neighbouring graves; but, in any event, it is the intention to install a field drain along the edge of the path. There is no present intention to create an opening through the existing stone wall. This would only become a possibility if and when the existing graveyard were to be extended into the adjoining field and so the path would not lead to people walking into the adjoining field. The petitioner accepts that before any work of this nature could take place, a further faculty would be required. The cost of the proposed path is being met by a parishioner in remembrance of a close relative whose grave is located to the side of the proposed path. It is unlikely that they would be prepared to bear the cost of the path if it were to be moved elsewhere.

5. This application falls to be judged by the criteria set out in the decision of the Court of Arches in *Re Duffield, St Alkmund* [2013] Fam 58 at para 87 (as subsequently clarified in later decisions). It is unnecessary for me to set out the *Duffield* sequence of questions in full within this judgment, but I have them firmly in mind. I am satisfied that the proposed path will cause no harm to the significance or the setting of this church as a building of special architectural or historic interest or to the churchyard. The justification put forward is in my view sufficient and looks to the safety and needs of those visiting the churchyard. The extension to the existing path is needed to facilitate access to an existing wooden bench in wet weather when the ground becomes quite boggy. The new footpath will also be available to facilitate access to any potential extension to the churchyard in due course; but this will have to be the subject of a further faculty application (and any necessary application for planning permission) in due course, and these will fall to be considered upon their own merits. I am satisfied that the petitioner's written response appropriately addresses, and should allay, the objectors' concerns.
6. For the reasons above, and pursuant to *FJR* 10.6 (2), I grant the faculty sought and direct that a faculty shall issue subject to the following conditions:
 - (1) No new opening is to be created in the existing churchyard boundary wall without an application for a further faculty.
 - (2) The style, materials and dimensions of the new footpath are to match those of the existing footpath.
 - (3) A suitable field drain is to be laid along the edge of the path.
 - (4) No existing graves are to be disturbed by the construction of the footpath.

His Honour Judge David Hodge QC,
Deputy Chancellor
22 February 2019