

In the matter of East Chiltington

Judgment

1. Mr Justin Fleming petitions for a faculty to permit the retention of two ‘pavers’ which he has laid on the graves of his wife and father respectively. I understand that these pavers may have been removed pending the determination of the petition.
2. Mr Fleming concedes that he did not obtain prior authorisation for their introduction but submits that they had been *in situ* for so long that it would be unjust to require their removal. There is a measure of disagreement as to when they were first laid on the graves, but for the purposes of this decision, I proceed on the basis that the timeline is as described by Mr Fleming, indicative of an introduction in 2020.
3. The priest-in-charge, churchwardens and PCC object. In short they maintain:
 - i. That they do not conform with the Churchyard Regulations applicable for this churchyard;
 - ii. That they are inappropriate as they duplicate memorials already in place on the respective graves giving the same information concerning the deceased;
 - iii. That they are not in keeping with the remainder of the churchyard;
 - iv. They are not sufficiently sunk into the ground so as to allow a mower to pass and one at least has already been damaged;
 - v. They represent a trip hazard and potential danger.
4. Mr Fleming says he decided to introduce the pavers when the PCC, acting with appropriate authority, removed mini-hedges which had been planted around a number of graves. In his view, they are an aesthetic addition and help in preventing the graves becoming overgrown by grass and weeds.
5. In this, as with all petitions, the burden of proof lies on the petitioner to satisfy the Court that a faculty should issue. Even if the pavers were introduced in 2020 as Mr Fleming claims, this does not give rise to any ‘grandfather rights’ for which he contends, nor is there any prescriptive remedy for their retention. The objections of the parish are cogent and not fanciful and reflect the public interest in the routine maintenance of a place of sanctity for parishioners and visitors and for the fair and uniform application of general directions.
6. I do not consider that Mr Fleming has demonstrated a principled basis upon which a departure from the general directions should be permitted in this case. To the contrary, the facts militate in favour of upholding a uniform and consistent approach, as contended for by the parish.
7. In the circumstances, Mr Fleming’s petition is dismissed.

8. The usual order is for the costs of and occasioned by the petition to be borne by the petitioner.
I will allow Mr Fleming seven days within which to make written submissions should he wish to contend otherwise.

The Worshipful Mark Hill KC
Chancellor of the Diocese of Chichester

2 September 2025