

Neutral Citation Number: [2025] ECC Car 9

IN THE CONSISTORY COURT OF THE DIOCESE OF CARLISLE

In the Matter of St. Martin’s Church, Bampton

Determined on the papers and without a hearing

THE PETITION OF:

(1) The Reverend Canon Patricia Anne Rogers

(2) Frank Peck

(3) Lilian Jennifer Hopkins

JUDGMENT

Delivered on 12 October 2025

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A. Introduction

1. By their Petition dated 29 April 2025 the Reverend Canon Patricia Rogers (Incumbent), Frank Peck (churchwarden) and Lilian Hopkins (lead of the Equal Access Group at the Church) seek a faculty permitting them to undertake certain works to St. Martin’s Church, Brampton (“**the Church**”).
2. The Victorian Society, as party opponent, contests the petition in part, challenging the proposed external works altering access to the Church.
3. With the parties’ agreement, I directed that this petition should be determined on the basis of their written representations.
4. In preparing this Judgment I have read the Petition, the DAC’s Notification of Advice, the Statements of Significance and Needs, the plans showing the proposed works, all the consultation responses, the Victorian Society’s Form 5 Particulars of Objection, the Petitioners’ Reply in Form 6, and a copy of a lease dated 20 April 2000 granted by the Carlisle Diocesan Board of Finance Ltd. to Stephen Summerson-Wright. I have also considered all the documents available through the online faculty system.
5. Before preparing this judgment, I visited the Church unaccompanied by any representatives of the parties, inspecting it inside and out. This was useful both to understand its celebrated qualities and to assess the access challenges faced by those with mobility difficulties.

B. The Church

6. St. Martin's Church was built in 1877-8, with its tower being completed in 1906. As the official Historic England list entry records, it is the only church designed by Philip Webb, the celebrated architect and designer.
7. The Church replaced a previous parish church that stood in open countryside some way outside Brampton. That building did not enjoy the same quality of design as its successor. Bishop William Nicholson visited the earlier church in 1702 and found it to be "... *little; and very unbecoming the grandeur of a Mercate-Town. 'Tis also in a Slovenly pickle; dark, black and ill-seated. The Quire is yet more Nasty.*"
8. In contrast to this assessment, and as I shall go on to describe, the Church has received many generous plaudits. In particular, it is celebrated for its stained glass: designed by Edward Burne-Jones and made by William Morris' company. Burne-Jones, in his account book, referred to the East window at the Church as "*a chef d'oeuvre of invention, a capo d'opera of conception – fifteen compartments – a Herculean labour*". Pevsner (1967) states that no one would question that "*it is a very remarkable building*", albeit "*not a building that has any of the blissful beauties of a church of the same date by Pearson or Bodley*". Hyde and Pevsner describe the windows as "*wonderful*" and specifically praise the "*richly coloured and jewel-like*" East window.
9. I shall consider the special architectural and historic interest of the Church in more detail later in this Judgment.

C. Proposals

10. The Petitioners' proposals ("**the Proposals**") are for both external and internal works.
11. The proposed external works are:

- (a) The installation of a lift at the entrance with ramped access and associated railings (“**the Access Proposals**”);
 - (b) Laying a new, marked-out car park surface with an accessible car parking space; and
 - (c) Fitting a cast iron grille to the ventilator serving the disabled WC.
12. The Access Proposals are shown on plans SK 20 Rev 4 and associated plans SK 23 Rev 2, SK 24 Rev 2, SK 25 Rev 1, SK 26 Rev 2, SK 28 Rev 1 and SK 29 Rev 1. They are the focus for the controversy between the Petitioners and the Victorian Society. In short, the Access Proposals entail the creation of ramped access, with associated railings, leading to a lift alongside the stairs that presently rise to the main door into the Church.
13. The proposed internal works (“**the Internal Proposals**”) are:
- (a) Installing a ramp below the round window in the refreshment area (in place of the initial application for a ramp from the baptistry);
 - (b) Creating an accessible WC facility; and
 - (c) Shortening two pews to enlarge the refreshment area.
14. The cost of the works in question has been estimated by an architect in the sum of £250,000. The Petitioners identify that it may take 12 months to raise sufficient funds to start work. Thereafter it is anticipated that work would be undertaken in several phases, and that it might take up to 3 years to complete the project.
15. The Proposals have the unanimous approval of the PCC.

D. Significance of the Church

16. In order to reach a decision on the first of the *Duffield* questions it is necessary to consider the significance of the Church (see *Duffield* at paragraphs 57 and

58). As the Court of Arches later explained in *Penhurst, St. John the Baptist* (2015) 17 Ecc LJ 393 at paragraph 22, “*Question (1) cannot be answered without prior consideration of what is the special architectural and/or historic interest of the listed church*”.

17. Having considered the submissions of both the Petitioners and the Victorian Society, I take the view that each recognises the Church’s singular importance, though the Petitioners distinguish between the significance of the building as a whole and that of certain parts of it.
18. The Church is on the national list of Buildings of Special Architectural and Historic Character and is Grade I listed. It stands in the Brampton Conservation Area. Since only a very small percentage of listed buildings are Grade I this is an immediate recognition of the exceptional significance of this Church.
19. The Church has a national, and indeed international, importance as well as a local one. This connects with the stature of its architect, Philip Webb, who is commonly celebrated as the Father of Arts and Crafts architecture. Webb was a close friend and collaborator of William Morris. He is famous as the architect of the Red House, Bexleyheath: a building taken to establish the template for architecture in the Arts and Crafts style. Furthermore, with William Morris, Webb was a founder member of the Society for the Protection of Ancient Buildings (“**SPAB**”) and an author of its Manifesto.
20. The Church’s further significance lies in the fact that it incorporates a complete set of windows designed by Edward Burne-Jones and William Morris: being the famous stained-glass windows that I have already mentioned.
21. Far from questioning or qualifying the significance of the Church as a building of special architectural or historic interest, the Petitioners join in recognising the Church as being of great significance, as an unaltered ensemble of the mature works of Webb, Burne-Jones and Morris.
22. In a conspicuously well-researched and reasoned Statement of Significance, the Petitioners identify the wholehearted praise that the Church has received from

commentators. It is the Petitioners' own case that the Church is of "*high national significance in terms of its architecture, art and history*". They agree with the Victorian Society that the Church (in the words of the Petitioners) "*... is of the highest significance and unique in Webb's work*".

23. The Petitioners refer to how Sheila Kirk (page 201) in "*Philip Webb: Pioneer of Arts and Crafts Architecture*" uses St. Martin's Church as an example of the many vigorous, dignified but unpretentious large public buildings that Webb might have produced had he not been so averse to working for committee clients. They also reference Roger Button in his "*Arts and Crafts Churches of Great Britain*" who saw St. Martin's Church as the first church in the mainstream of the British Arts and Crafts movement, having a seminal impact on those churches that followed.
24. The parties are at odds over what degree of harm would result to the significance of the Church from implementing the Access Proposals. Part of the Petitioners' case is that the changes they propose to the entrance of the Church affect a part of the building that is of a lesser significance than others. They reason that "*The most visually prominent parts of the building are the incredible tower and its distinctive spire and the crenellated gables of the north aisle facing the street across a narrow gap. The entrance doors and flight of steps leading to them are actually set back some way from the street frontage and when one has got to the points where they are visible the from the street frontage one's eyes are drawn upwards to the literal tour de force of the tower above the crenellated top to the overhang above the doors.*"
25. Further, the Petitioners write that "*What draws visitors from afar and delights those visiting and using the building are the glories of the windows; the quality of the internal space and Webb's distinctive interpretation of the local architectural vernacular. The external flight of steps to the main entrance has never been identified as a particularly distinguished example of its kind or critical component in the overall architectural impact. Indeed, in Webb's original design*

they would have been screened from view. It was only the need to economize on the build cost that left this flight of steps open to view.”

26. Similarly, the Diocesan Advisory Committee (“**DAC**”) advises that the pillar bases at the entrance “*are not a key feature in the overall character of the main entrance of St. Martin’s as a whole*”.
27. The Victorian Society rejects such subdivision. Their case is that “*St Martin's Church is a building of the highest significance and totally unique as the only church building by Philip Webb, one of the most important and influential architects of the 19th century, seen by many as the progenitor of the Arts and Crafts Movement. The church itself was an influential design, and its impact can be seen in such buildings as Queen's Cross Church, Glasgow by Charles Rennie Mackintosh. As the work of major and highly talented architect, every aspect of the building's design was carefully considered, this makes it particularly sensitive to any addition or alteration, as this would impact the intactness of Webb's design.*”
28. Thus it is argued that the significance of the Church lies in the facts that it is the only church designed by Philip Webb, who I accept (in the words of the Victorian Society) was an “*immensely important and influential*” character in the Arts and Crafts Movement; it is intact and unaltered; and that continuing integrity of the original construction has a high value of its own.
29. In my judgement, in gauging the significance of this Church, and whether it belongs to the composite whole or is properly capable of sub-division as to its different constituent parts, it is reasonable to take into account as one factor to be considered what Philip Webb himself might have been expected to say on the question.

30. There I have considered the words of the SPAB Manifesto¹, of which Philip Webb was a joint author. While encouraging good quality restoration of buildings where necessary, that document proposes:

“It is for all these buildings, therefore, of all times and styles, that we plead, and call upon those who have to deal with them, to put Protection in the place of Restoration, to stave off decay by daily care, to prop a perilous wall or mend a leaky roof by such means as are obviously meant for support or covering, and show no pretence of other art, and otherwise to resist all tampering with either the fabric or ornament of the building as it stands; if it has become inconvenient for its present use, to raise another building rather than alter or enlarge the old one; in fine to treat our ancient buildings as monuments of a bygone art, created by bygone manners, that modern art cannot meddle with without destroying”
(emphasis added).

31. Furthermore:

“If, for the rest, it be asked us to specify what kind of amount of art, style, or other interest in a building makes it worth protecting, we answer, anything which can be looked on as artistic, picturesque, historical, antique, or substantial: any work, in short, over which educated, artistic people would think it worth while to argue at all”.

32. I take this as a plea against alteration of any part of a historic building that makes a material contribution to its aesthetic or historical character.
33. I therefore accept the Victorian Society’s view that the special interest of this Grade I listed church rests in large part on its being the sole and unaltered work of an internationally distinguished architect. The Church has remained unchanged since completion, and that unbroken integrity forms one of its essential qualities. It is not simply Webb’s only church; it is his only surviving

¹ <https://www.spab.org.uk/about-us/spab-manifesto>

work of this kind in an untouched state. I am not attracted to an approach which attributes lesser or greater merit to different components of the building.

34. Otherwise, it seems to me that there is common ground between the parties as to the high degree of significance of the Church.

E. Statement of Need

35. The DAC helpfully summarises the position in its Notification of Advice. The need lying behind the Proposals is “... *for St Martin’s to be made accessible for the benefit of its mission, witness, work and outreach to the town and local community*” explaining that “*This need is supported by St Martin’s position (and prominence) in the Brampton Deanery and its future contribution to the Mission Community*”. The DAC identifies that “... *at present St Martin’s is not able to adequately minister to or serve the needs of its community, with representatives of all age-groups noting the significant problems associated with being unable to physically access the church building.*”
36. The revised Statement of Need puts the matter this way, at paragraph 2.6:
- “... *while raising the original building high above its surroundings produced the desired impressive and dignified structure it has also produced daunting problems of access for anyone with mobility issues, sight issues, balance problems or not having peak stamina. It is not only that one cannot, unaided, go in by the main entrance if in a wheelchair or unable to carry an occupied push-chair or pram. One cannot enter, unaided on foot unless able to climb up 10 steps with only a hand rail on the east side before one can pause before the final step over the threshold and then the two steps inside. There are the same difficulties on exit with an additional risk in that the bottom step is shallower than all the other steps increasing the risks of stumbling.*”
37. Having visited the Church I do not doubt that this is an accurate and fair summary of the present difficulties of access.

38. I would summarise the Petitioners' case about the nature and consequence of the present access arrangements as follows:
- (a) The Petitioners identify fundamental problems of accessibility which prevent many people from entering or using the Church, or oblige them to do so only at the risk of exhaustion, accident, or indignity. I note that the Church Buildings Council ("**CBC**") echoes this assessment, writing that "*There are approximately twelve steep stairs which need to be navigated to reach the west end (the only access to the building) of the nave. The stairs lead straight from the public footpath and there is no space for a ramp of a suitable gradient to reach the interior of the building. Whilst the stairs provide a dramatic backdrop for wedding photos, it is becoming more and more impractical for church users.*"
 - (b) Longstanding members of the congregation can no longer attend services because they cannot negotiate the external and internal steps with safety. Others have never been able to attend services or events at the Church for the same reason. Family members have missed weddings, funerals, and christenings of close relatives because they cannot gain access.
 - (c) The Church serves the community of Brampton and beyond, hosting concerts, school services, commemorations, exhibitions, and social events. Some choirs, music groups, schools, and organisations have reluctantly ceased or curtailed their use of the Church because of access difficulties.
 - (d) National and international visitors, many drawn by the Church's historic and architectural significance, often cannot enter and must remain outside. On several occasions the Rector has taken photographs inside for those unable to see the interior for themselves.
 - (e) The current arrangements cause embarrassment and distress. Children, vulnerable individuals, and those with disabilities sometimes must be carried, steadied, or lifted into the Church. This creates indignity and a sense of exclusion.

- (f) These difficulties diminish participation, support, and engagement with the life and mission of the Church. The Petitioners stress that this situation conflicts directly with the Diocesan vision of “God for All” and that the building itself, through its inaccessibility, has become a barrier to worship and community life.
39. The upshot is that the Petitioners report that “*more and more services are having to take place elsewhere*” and “*We cannot effectively use it as a centre for pastoral work and mission when so many cannot get access. Were it to get to the point of being unviable to continue to use it as a church it is difficult to see what other use could occupy it without improvements to the access and probably with many more alterations to the space and its character. Alternative uses are unlikely to continue to allow free access to the general public.*”
40. For its part, the Victorian Society acknowledges the benefit of providing equal access. It states in terms that “*the public benefit of providing equal access is high*”. It makes clear that it “*fully supports the parish’s desire to provide appropriate access*” while cautioning that “*in a building of this significance and sensitivity [the access arrangements] must be as considered as possible.*”

F. Applicable Law

41. In considering whether to grant a faculty I have considered the series of questions identified by the Court of Arches in the case of *Re St. Alkmund, Duffield* [2013] Fam. 158 at paragraph 87 (and see *Re St. Peter, Shipton Bellinger* [2016] Fam. 193 at paragraph 35). The 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 a good reason change should not be permitted?
- (3) If the answer to question (1) is 'yes', how serious would the harm be?

- (4) How clear and convincing is the justification for carrying out the proposals?
- (5) Bearing in mind that there is a strong presumption against proposals which will adversely affect the 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? In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm to a building which is listed Grade I or II*, where serious harm should only exceptionally be allowed.
42. As to the “*strong presumption*” mentioned in the fifth Duffield question, this is informed by the Arches Court’s earlier decision in *Re St. Luke the Evangelist, Maidstone* [1995] Fam 1, 8 where it held that “... *where a church is listed there is a strong presumption against change which would adversely affect its character as a building of special architectural or historic interest. In order to rebut that presumption there must be evidence of sufficient weight to show a necessity for such a change for some compelling reason, which could include the pastoral wellbeing of the church.*”

Law Concerning Equal Access

43. In determining this petition, I must also consider the law governing proposals to improve access. There the Church’s duty is one to do what is reasonable to secure equal access, being access as close as it is reasonably possible to get to the standard normally offered to the public at large (*Eccleshall* [2011] Fam 1 (Court of Arches) paragraph 68). Plainly, that duty may come into conflict with the duty to avoid causing harm to churches of special architectural or historic interest.
44. In preparing this judgment I have referred to the Church Buildings Council publication “*Equal Access to Church Buildings*” (2021) (“**the CBC Guidance**”). Although the document does not expressly say so, I take it to have been issued under section 55(1)(d) of the Dioceses, Pastoral and Mission Measure 2007. As

such, I take it to be statutory guidance that I should consider with great care. In my view I should only depart from that guidance for reasons that are clear, logical and convincing.

45. I have taken into account the following statements of general principle contained in the CBC Guidance:
- (a) *“In seeking a good accessible outcome, the Council is likely to encourage solutions that provide an equality of experience for all. If there is more than one way of achieving this, the Council is likely to encourage one that involves the least intervention with a historic building.”*
 - (b) There is a “legal duty to make reasonable adjustments to provide equal access” and churches are advised that *“having a church that is accessible is a key element of your mission and it is a strong element of the case you will need to make for the changes that you need [i.e. to achieve equal access]”*.
 - (c) The CBC approaches equal access cases on the basis that *“Equal access provisions should allow a similar experience of the building to all users, ideally all using an entrance in common”* and *“Where adequate access cannot reasonably be achieved in any other way, disturbance and alteration of an historic opening might be justified”*.
46. The use of the word “*might*” in the passage I have just quoted indicates to me that even if adequate access cannot otherwise reasonably be achieved, then disturbance and alteration of an historic opening will not automatically be the correct outcome. This allows, in my view, for the possibility that the proposed changes to an historic opening may be inappropriate where the benefit of improved access does not outweigh the harm of the proposed works. In other words, the CBC Guidance identifies best practice but allows for the fifth *Duffield* question to lead in some cases to a different outcome.
47. I have also read and considered Historic England’s publication (“**the HE Guidance**”) “*Easy Access to Historic Buildings*”, noting that the CBC Guidance

mentions it (p.21). Indeed, the HE Guidance refers to ecclesiastical buildings (e.g. pp.7 and 9), identifying the principle that:

“... where changes are proposed to a listed church there should be a clear need for the works which is sufficient to outweigh the normal assumption against alteration. Improvements to access should be considered in this context, in the light of what is reasonable.”

Alternative Approaches

48. It is also necessary for me to consider whether the Proposals in this case could be achieved in a less harmful manner. The matter was put this way by Chancellor Hodge KC in *Re St. Peter & St. Paul, Aston Rowant* [2019] ECC Oxf 3 at paragraph 7:

“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.”

G. Discussion

49. I now turn to consider how, in my judgement, the *Duffield* questions should be answered on the facts of this case.

Assessment of Harm

50. I shall take the first three *Duffield* questions together: because it is common ground that the Access Proposals, if implemented, would result at least some harm to the significance of the church as a building of special architectural or historic interest. The parties' real difference is as to how serious that harm would be.
51. In short, the Petitioners say that the Proposals entail "*low key internal impacts*" and "*only a modest degree of external impact*", limited to the recessed entrance area. The DAC advises that the Proposals would cause "*medium harm*", with the impact of the external lift on the pillar bases being classed as "*low*". The Victorian Society, on the other hand, describes the Access Proposals as being "*highly harmful*".
52. In Section D of this Judgment I assessed the significance of the Church as a listed building of special architectural and historic interest. Its unique and unaltered character as the sole church of an internationally celebrated architect is a key element of that significance, lying in the integrity of the building as a whole. Beyond that, as already noted, the parties are largely agreed that the Church is of the highest architectural and historic importance. This is as a work of Philip Webb and for the "*glories of the windows; the quality of the internal space and Webb's distinctive interpretation of the local architectural vernacular*" (the Petitioners' words).
53. The Victorian Society's case is that the entrance to the Church is "*carefully articulated to provide an architecturally interesting and engaging introduction to the building*". The Society contend that the Access Proposals would have a high impact on the intactness of the Church and introduce a new, highly conspicuous element onto the most prominent part of the building. They point to the solid and substantial new structure proposed, which together with the platform lift would, they argue, detract from the simplicity of Webb's original entrance.

54. I also take into account the consultation response of Historic Buildings & Places (“**HBAP**”). It identifies this as a “*terribly difficult case*” to which there is “*no easy answer*”. HBAP ultimately deferred to the Victorian Society’s submissions. It wrote that it was “*sorry that we cannot make the life of the DAC or Chancellor easier by commending any of the options – pointing out the drawbacks may seem facile but we find it very hard to offer a clearly positive reaction*”.
55. As I have already explained (paragraph 24, above) the Petitioners challenge the Victorian Society’s assessment of harm. They reason that the most prominent parts of the building, and the features that draw the eye, lie not its entrance so much as its tower and spire, and the gables of the north aisle as they face the street. They rely on the fact that the entrance door and flight of steps to it are set back from the street. The Petitioners also reason that since Webb’s original design saw the steps screened from view, that should inform a conclusion over harm in this case.
56. As to the objection that the Access Proposals are “*solid and substantial*” the Petitioners counter that:
- “Given that key inspirations of Webb’s design were the many Border castles and fortified towers ... and that the proposals are beneath the massive tower of the church, criticism of the access design as being solid and substantial is rather strange. Only something solid and substantial would be appropriate in this context and it is difficult to understand how the low ramp, its low, enclosing wall and the stone embrasure for the lift platform could appear over-conspicuous next to the dramatic steps and the overhung, crenellated porch of the broad, main entrance sat below the massive and dramatically moulded tower. There is enough mass and form in the proposed new entrance features to avoid them looking ridiculously insubstantial compared to the remainder of the building but not such a mass and form that it undermines the drama and dominance of the powerful original design. As described in the SoS (Section 4.3), the entrance is well set back from the main north elevation of the church to Front Street and the*

design of the entrance is asymmetrical making it easier to add a feature on its western perimeter.”

57. In fact, it strikes me that in fact the observations made by the parties are both fair, and that the difference between them turns on the distance and angle from which the Access Proposals are being considered.
58. If seen from a distance, and particularly from an oblique angle, the Petitioners’ case for the visual impact of the new access (and specifically the proposed lift) is persuasive.
59. On the other hand, in my judgement, seen head on, looking up the steps, and at close quarters, the lift would be directly in line of sight. Furthermore, I bear in mind that every visitor to the Church using the steps or revised access arrangements would pass close by the new lift. Undoubtedly their eye will be drawn to the tower as they approach, but then every visitor approaching the door will of necessity need to pay attention to where they are going and that will entail a focus on the immediate entrance area.
60. In these circumstances my assessment is that a high degree of harm to the to the significance of the Church as a building of special architectural or historic interest would result from implementing the new Access Proposals. This is because the access lift would be a material departure from the presently unaltered whole of this unique Grade I listed building. It would be a conspicuous feature seen from close quarters by every visitor to the Church, and of such a size and design that it would be recognisable as a separate and identifiably new feature of the building. In other words, my assessment results from the way that the dimensions, location and visibility of the proposed new lift would sit as a distinct departure from the simple and congruous design of the existing entrance.
61. In reaching this assessment of harm I have also taken into consideration Philip Webb’s own admonition about “*resisting all tampering with either the fabric or ornament of the building as it stands*”. Since a substantial part of this Church’s

significance lies in its being Webb's work, it is reasonable to take his published views on preserving the integrity of his designs as one relevant factor. I emphasise that this is only one element of my assessment and must be weighed against the case advanced for the revised access scheme. That is the issue to which I now turn.

62. Before doing so, I will simply note that the proposals for works to the interior of the Church are no longer the subject of active controversy.

Justification for the Proposals

63. The fourth *Duffield* question requires me to consider whether the Petitioners put forward a clear and convincing justification for carrying out the Proposals. I will say immediately that in my judgement they have indeed done so.
64. I am satisfied that there is a compelling need for improved, and equal, access to this Church. I accept the reasoning put forward by the Petitioners and that I have already set out in Section E of this Judgment, above. I refer to my six-point summary of their case at paragraph 38, above.
65. Without wishing to detract from the full statement of the Petitioners' case on need, which I accept, the key submissions they make are that as matters stand the Church's steep and unavoidable steps make access unsafe or impossible for many. The current access arrangements prevent long-standing parishioners with their friends and relatives from attending services or family occasions. Visitors who are unable to manage the steps are excluded from entering the Church to appreciate its interior. I accept that the resulting situation must cause embarrassment and indignity when children or disabled people have to be carried in and must undermine participation in worship and community life.
66. I also attach considerable weight to the advice of the DAC (by a majority decision) where it expresses wholehearted and unreserved support for the need to make the Church accessible. In its advice as to balancing the harm that would result from the Access Proposals against need, it identifies a "*strong*

missional imperative of making the building as accessible as possible". In other words, it expresses its assessment of need in the very strongest terms.

Fifth *Duffield* Question

67. This brings me to the 5th *Duffield* question, which involves deciding whether the public benefit that would result from the Access Proposals would outweigh the resultant harm to the character of this listed Church. I bear in mind the strong presumption against proposals that will adversely affect the character of a listed building. I also remind myself that the more serious the identified harm, the greater will be the level of benefit needed before the proposals should be permitted. The law is very clear that serious harm to a building which is listed Grade I should only "*exceptionally be allowed*" (see *Duffield* at paragraph 87).
68. In this case I have assessed that a high degree of harm to the significance of the Church as a listed building would be caused by implementing the Access Proposals, but that, nonetheless, a high degree of public benefit would result. The process of weighing harm against benefit is, therefore, not straightforward.

The Alternative Proposal

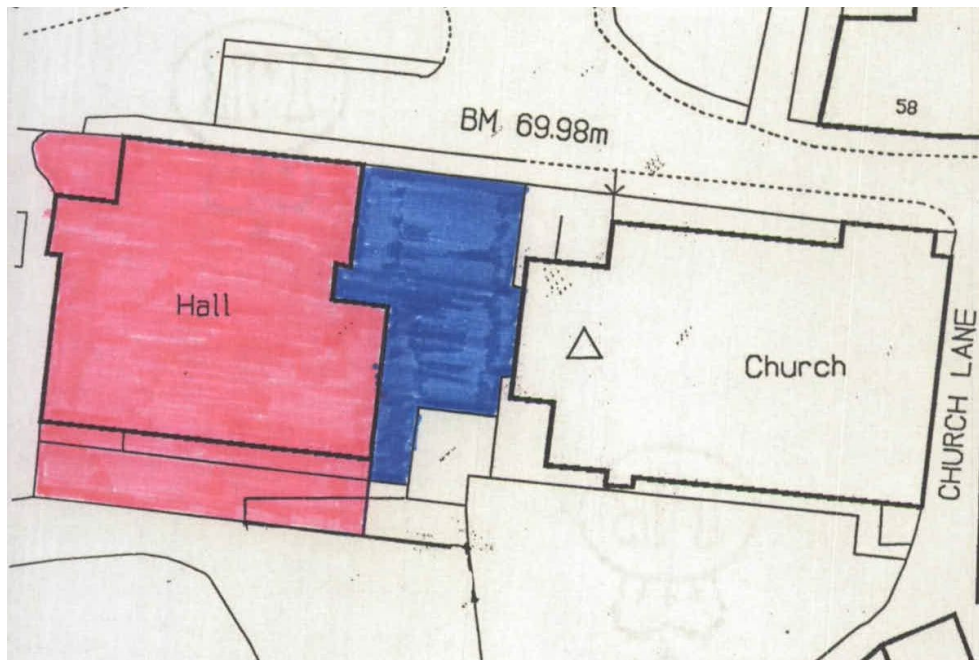
69. In addressing the fifth *Duffield* question, I must consider one further factor not yet explored in this judgment — whether the same, or substantially the same, benefit could be achieved in a manner causing less harm to the character and special significance of the Church (see above, paragraph 48 for the law in this regard).
70. The Victorian Society take this as a specific argument against the Access Proposals. They say that the Petitioners should further explore the possibility of introducing a new accessible entrance in the "*less sensitive*" western elevation, underneath the stained glass "*Paradise Window*". While noting that the Petitioners have prepared a drawing SK19 to illustrate difficulties with this approach, they say that serious consideration has not yet been given to it. They contend that this approach would leave the principal elevation, in their words, unencumbered. In particular, they challenge plan SK19 as failing to show how

access could be achieved using a platform lift either alone or in combination with internal and external ramps. The Victorian Society also challenges whether there has been a thorough exploration of how access might be achieved in this way despite the concerns raised by the owners of neighbouring properties.

71. The Petitioners have indeed considered the possibility of making access through a new door beneath the Paradise Window (**“the Alternative Proposal”**). Their architect’s plan SK19 concerns this option. The Petitioners’ case is that:
- (a) Internally and externally, there is insufficient headroom between the internal floor level and the base of the window to insert an entrance doorway.
 - (b) To create adequate space below the window for an entrance would involve excavation below floor level and the creation of an internal ramp with rails guarding the change in level. This risks introducing distracting clutter below one of the major windows detracting from appreciation of it. As they put it, this proposal would introduce a *“distracting utilitarian feature directly below one of the key Burne Jones and Morris windows which are a key, internationally regarded feature of the church”*.
 - (c) The construction of access beneath the Paradise Window might risk causing damage to that very valuable feature of the Church.
 - (d) This proposed door would not amount to equal access, through the main door of the Church.
 - (e) To rise from the level of the neighbouring car park to the internal floor level would require a ramp some 36 metres long, that would fill the car park and dominate the main elevation of the neighbouring St. Martin’s Cottage (also a listed building). Further, it is said that *“The Church does not own the adjoining car park and there is no possibility of solving the access problems utilising that space”* (Statement of Need, paragraph 5.3.2). In their Form 6 Reply the Petitioners write (paragraph 4.1) *“The Church has no legal right to erect a ramp on the Antique Centre’s car park to the west of the church nor any right to encroach in any way*

onto it” and “No purpose would be served by drawing up in detail a scheme that we have no legal right to implement nor any prospect of negotiating such rights”.

72. The DAC majority advise that the Petitioners’ points are well made. They write that the creation of an entrance beneath the Paradise Window “*would potentially cause greater harm to the building*” than the existing Access Proposals. Furthermore, they state that “... *one of the key factors in guiding the DAC’s discernment was the relationship between the church and the adjacent car park*” (emphasis added). Since it understood the car park to be subject to a long lease, the DAC judged the issues raised by the Victorian Society’s proposal to be “*insurmountable*”.
73. Having canvassed the rival cases made, and weighed them with the DAC’s advice, I come to the following conclusions.
74. In the first place, I respectfully differ from the Petitioners in their understanding of the rights the PCC has, or is reasonably like to have, in and over the car park. This impacts on the accurate assessment of their ability to make access through the car park. In turn, in my view, this means that the DAC’s advice needs to be revisited: as to there being insurmountable difficulties stemming from the Petitioners’ inability to achieve access through the car park. (I make clear that this is no criticism of the DAC, which was evidently depending on what it had been told by others about rights in and over that land).
75. So that I could consider this point the Petitioners kindly supplied me with a copy of the long lease governing use and occupation of the antiques centre to the west of the Church. This is a 999-year lease dated 20 April 2000 and granted by Carlisle Diocesan Board of Finance Ltd. (“**the DBF**”) to Stephen Summerson-Wright.
76. The demised premises are defined by clause 1.23 of the Lease as being the former Brampton Church Hall, shown for identification purposes coloured pink on the plan with the lease. I reproduce an extract from that plan below, thus:



77. What may be seen is that the lease is of what is marked as “Hall” on this plan, being the pink shaded land.
78. The area between the Hall and the Church is coloured in blue (“**the Blue Land**”). This is the car park. The Lease grants the tenant certain rights in and over that Blue Land: including a right of way with or without vehicles at all times of day and night, and a right to park.
79. The right to park is qualified by clause 3.21 of the Lease so that the tenant may not park, or allow to be parked, on the Blue Land any motor vehicles during Sunday church services or for one hour beforehand. In that clause the Blue Land is described as “*the retained land coloured blue*” (emphasis added): which in my view reinforces the conclusion that the Blue Land (including the car park) is not itself let to the tenant, since it has been retained by the DBF, presumably as custodian trustee for the parish.
80. Separately, clause 1.20 of the Lease limits Sunday trading at the demised premises themselves.
81. What flows from this is that I must respectfully differ from the Petitioners when they contend that “*The Church does not own the adjoining car park*”. It seems to

me that the Church is indeed beneficial owner of the car park, which is held by the DBF as custodian trustee. That land is not let to the Antiques Centre.

82. In my view, the correct analysis is that consideration of the Alternative Proposal must take account of the access and parking rights truly conferred by the Lease. On that point I must respectfully differ from the Petitioners' assessment that those rights prevent any encroachment whatever upon the car park, whether for a ramp or otherwise. The existence of the tenant's rights will constrain any act amounting to substantial interference with them; but if those rights can still be exercised as practically and conveniently as before, there will be no such interference (see *Colls v. Home and Colonial Stores Ltd.* [1904] AC 179 and *B&Q plc v. Liverpool & Lancashire Properties Ltd.* [2000] EWHC 463 (Ch.)).
83. The upshot, in my view, is that the Petitioners appear innocently to have misunderstood their rights in and over the car park. That misunderstanding has affected their assessment of the viability of the Alternative Proposal. This, in turn, has affected the DAC's advice.
84. To illustrate this point, it seems possible to me that pedestrian and wheelchair access could be made through the car park (and perhaps some alteration be made to the gradient, marking out and surface of that area) without there being any actionable interference with the tenant's rights.
85. In that connection I note two further facts.
86. First is that the parish retains ownership of St. Martin's Cottage, to which the only access appears to run over the car park. It is not, therefore, that making access over the car park to a new entrance to the Church would subject it to a wholly new type of use. It is already in use for Church purposes.
87. Second is that the CBC's letter to the PCC dated 29 July 2015 shows that at one time the parish was itself actively considering making a new entrance either in the south aisle or baptistry wall. This was a proposal that envisaged demolition or extension of St. Martin's Cottage and the use of a lift to achieve level access. Although the CBC did not support the creation of an opening in the baptistry

wall, it *“felt that an opening through the west wall of the South side could be accepted, subject to detail of design and materials, taking into account the potential impact on the Paradise window”*.

88. What emerges from this, in my view, is that the parish itself at one stage had in mind, and provisionally promoted to the CBC, something akin to the Alternative Proposal now mooted by the Victorian Society.
89. The Petitioners’ options appraisal (section 4 of their Revised Statement of Needs, at paragraph 4.4.2) notes that this earlier proposal was set aside as it appeared clear to them that there was insufficient room beneath the Paradise Window for a doorway. This in turn engages the Victorian Society’s argument that alterations to levels and the introduction of ramps could create sufficient space for a door. The Petitioners respond that there was little point in developing such proposals because access over the car park could not be secured. In my judgement, however, that problem does not appear to be incapable of resolution.
90. Taking these factors together, and seeing them through the prism of the 5th *Duffield* test, I arrive at the conclusion that as matters stand the merits of the Alternative Proposal have not yet been sufficiently appraised by the Petitioners. This is because it seems to me that they have not accurately understood the parish’s rights in and over the car park; and their modelling of the Alternative Proposal in plan SK19 does not consider the possibility of achieving level access to such an entrance through the use of a platform lift, and/or internal and/or external ramps. Furthermore, it does not seem to me that the possibly deleterious effect of creating a new access beneath the Paradise Window can finally be assessed without a detailed scheme being drawn up. Still further, as matters presently stand it is reasonable to reflect that the parish itself previously mooted an access at this point, and appears to have abandoned that proposal for pragmatic reasons (i.e. a lack of headroom) rather than out of aesthetic concerns.

91. This being the case, I conclude that there is a reasonable possibility that the same or substantially the same benefit (i.e. equal access) could be obtained by other works than the Access Proposals while causing less harm to the character and special significance of the church. I reach this view while fully accepting the principle that, where reasonably possible, equal access to a Church should involve a single entrance, used by all visitors. My present assessment is that this is a case where that may not be reasonably possible.
92. That finding informs my answer to the fifth *Duffield* question. I have concluded that implementation of the Access Proposals carries a risk of significant harm, which must be weighed against the high degree of public benefit they would bring. What ultimately tips the balance against granting the petition is the strong presumption against works that would harm the significance of a listed building, and the principle that serious harm to a Grade I building should be permitted only exceptionally. Since there remains a genuine and not yet exhausted prospect of securing comparable benefit at lesser cost to the Church's character and significance, this cannot, in my judgment, at least presently, be regarded as such an exceptional case.
93. After considerable thought, I therefore determine the 5th *Duffield* question against the Petitioners.

H. Decision

94. The Internal Proposals, in their final iteration, have not been controversial: save that the Victorian Society expressed reservations about the WC pod design. That objection did not carry forward to their Form 5 Particulars of Objection.
95. As recommended by the DAC I am prepared to approve the Internal Proposals in their most up-to-date form (see plans P1 and P8 (internal works only)), subject to the prior written approval of the Archdeacon as to final design and finishes.

96. For the reasons set out above, I have, with real reluctance, concluded that the petition must be dismissed so far as the external proposals are concerned. I have reflected carefully before reaching that decision, conscious of the real disappointment it will cause to all who have worked with such skill and commitment over many years to frame and advance these proposals. That includes not only the Petitioners but also their advisers and the DAC, whose thoughtful and expert collaboration has been directed towards achieving the best possible solution to the difficult question of securing equal access to this fine Church.
97. HBAP's first consultation response commended "*the parish in trying to square the circle. It is a noble and Christian purpose to make access to this outstanding building open to as many people as possible. It is, as they say, a question of how it is done, not whether.*" I respectfully endorse that sentiment. If, after full exploration, the Alternative Proposal were found not substantially to meet the identified need for equal access, that would cast the merits of the present Access Proposals, and the answer to the fifth *Duffield* question, in a new light. Equally, if further examination showed the Alternative Proposal to be no less harmful than the present Access Proposals, that too would be highly material.

I. Directions

98. I direct that a faculty should issue for the Internal Proposals in their most up-to-date form (see plans P1 and P8 (internal works only)), subject to the prior written approval of the Archdeacon as to final design and finishes.
99. I also direct that a faculty should issue as to:
- (a) Laying a new, marked-out car park surface with an accessible car parking space; and
 - (b) Fitting a cast iron grille to the ventilator serving the disabled WC.
100. Otherwise, I dismiss the Petition, for the reasons I have given.

101. As to costs and fees, I charge no fee for this written judgment, but the Petitioners must pay the costs of the petition, including any fees incurred by the Registry in dealing with this faculty application.
102. Unless either the Petitioners or the Victorian Society as party opponent applies to me in writing within 14 days of the date of this Judgment asking me to make some other order, I make no other order as to costs.

JAMES FRYER-SPEDDING

Chancellor

12 October 2025