

In the Consistory Court of the Diocese of Blackburn

In re St John the Evangelist, Read-in-Whalley

His Honour Judge David Hodge QC, Deputy Chancellor

1. This is an unopposed petition by the priest-in-charge and churchwardens of the parish church of St John the Evangelist, Read-in-Whalley in the Archdeaconry of Blackburn for a faculty to replace the left and right lights of the current plain glass window on the south side of the front of the nave, near the chancel, with stained glass. The window is to be a gift to the church from the Rt Hon Lord Waddington GCVO, a son of the village. The application was submitted via the online faculty system in September 2016 and it is therefore governed by the *Faculty Jurisdiction Rules 2015* (“*the FJR 2015*”). Since the petition is unopposed I propose to deal with it without a hearing under rule 10.6.

2. The church was built between 1884 and 1885 and is Grade II listed. The listing description is as follows:

Church, 1884 by Ross of Accrington, with tower added 1911. Rock-faced sandstone with slate roof. Comprises a west tower with west chapel, a nave, a lower chancel which has a 3-sided apsidal east end, a north lean-to organ chamber and vestry, a gabled projection on the south, and a south porch. The nave, of 5 bays to the north and 4 to the south, has paired chamfered lancets. The porch is timber-framed above a stone base. Against the west wall, offset to the south, is the tower, which has angle buttresses which terminate with gablets against a stone spire. The bell openings are of 2 trefoiled lights with a trefoil under a pointed head. The west window is similar. To the north of the tower, against the west wall of the nave, is a single-storey lean-to chapel which has 3 windows each of one trefoiled light. Inside, the nave has scissor-braced trusses. At the west end 2 moulded pointed arches with octagonal column and semi-octagonal responds open into the chapel. A smaller arch to the south opens into the lower stage of the tower. The chancel arch is pointed and chamfered in 2 orders.

3. The proposal is to replace the existing plain glass window with a new design by Pendle Stained Glass depicting St John the Evangelist in the left hand light and St George in the right hand light. Hand-made glass is to be used throughout, with acid etching and silver staining for the heraldic details. Borders of clear

'reamy' glass (handmade glass containing ripples and bubbles) will maintain good light levels and frame the rich colours within. At the top of the left light is to be the coat of arms of Lord Waddington showing the coronet of a baron and the Grand Cross of the Victorian Order. At the base of this light is to be a view of St John's Church in grisaille surrounded by red roses, the emblem of Lancashire. At the top of the right light is to be the coat of arms of Bermuda where Lord Waddington was Governor from 1992 to 1997. At the base of this light is to be a view of Lord Waddington's childhood home, the Old Vicarage in Read. It is to be depicted in grisaille and surrounded by boughs of native British oak, representing strength and fortitude. There are to be plaques for two inscriptions to be placed at the base of each light. The inscription at the base of the left light is to contain a passage from Psalm 46 (verses 1-2):

"God is our hope and strength; a very present help in trouble.
Therefore we will not fear, though the earth be moved;
and though the hills be carried into the midst of the sea".

This is said to have been the inspiration for the motto in Lord Waddington's coat of arms: "Deus Noster Refugium Et Virtus" (God is our refuge and strength). The inscription at the base of the right light is to detail the gift from Lord Waddington:

"The gift of David Charles Lord Waddington GCVO
MP for Nelson & Colne and for Clitheroe & Ribble Valley,
Home Secretary 1989-1990
Governor and Commander in Chief, Bermuda 1992-1997".

It is said by the petitioners that the addition of the proposed stained glass window in place of the existing plain glass will be a positive visual enhancement to the appearance of the church that will be enjoyed by the congregation and the wider community and that it has been specifically designed to ensure that there is no significant loss of light to the interior of the church.

4. The PCC unanimously approved the proposal for the new window at a meeting held on 20th September 2016 attended by 14 of its 18 members. The DAC recommended the window for approval by this court at a meeting held on 14th October 2016. In the DAC's opinion the work was likely to affect the character of the church as a building of special architectural or historic interest. The DAC considered that rule 9.9 of the FJR 2015 required the publication of a notice on the diocesan website, presumably because the proposed works involved an alteration to the exterior of the church. The DAC recommended that the petitioners should consult Historic England and the Church Buildings Council (but not the Victorian Society as the relevant national amenity society). This has been duly done. In a letter dated 19th October 2016 Historic England wrote that it had no comments to make. In an email to the DAC (copied to the registrar) dated 16th November 2016 the Church Buildings Officer, dealing with the matter as delegated advice at officer level, acknowledged that as the church was Grade II listed, the proposals appeared to have a relatively low impact on the significance of the building. Nevertheless, based on the information provided, she expressed concerns, both in terms of the quality of the application and the

proposed design of the window. First, the original statement of significance was said to provide inadequate context for the window. In particular, the CBC would have expected to see information about any existing stained glass in the church, including the themes of their imagery and their style and their colouring, as the design of the new window should take these factors into consideration so that it was not incongruous or out-of-keeping with the existing building. Moreover, the statement of needs did not present a convincing case that the decision to insert a window had come about through engagement and consultation with the parish and the community. The implication was that the proposal has been driven primarily by the donor, and there was also no indication of the parish having been involved in preparing a brief or carrying out a robust commissioning process for the design. Secondly, regarding the design itself, the CBC wished to highlight that there was a general principle that living donors were not commemorated in stained glass and other artworks, so the inclusion of the coat of arms associated with Lord Waddington would be out of keeping with this tradition and the CBC would encourage their omission. Regarding the choice of saints, St John's inclusion was apparent due to his position as the patron saint of the church; but the reason for the inclusion of St George was said to be less clear. Whilst not objectionable in itself, it would be useful to expand on the choice and the relevance of St George to the church, particularly as he had been selected over St Peter, who would seem to have been a more obvious link, given that St John's was a joint parish with St Peter's, Simonstone.

5. Public notices of the application to the court have been duly displayed, both inside and outside the church, from 19th October to 18th November 2016. I assume that the application has also been duly published on the diocesan website in accordance with the requirement of the DAC. No objections to the proposals have been notified to the Registrar, and the petition is therefore unopposed.
6. When the application was first placed before me, I indicated that I would welcome the petitioners' response to what seemed to me to be the pertinent and helpful observations from the Church Buildings Officer (for which I am grateful). It was clear from the photographs that had been uploaded as part of the online application that there was at least one other existing stained glass window on the south-facing side of the church; and I indicated that I would also like to see photographs of all of the other stained glass windows in the church (with details of their location). Finally I observed that there was conflicting information about the detail of the inscriptions to be placed at the base of each window light; and I sought clarification on this issue.
7. The petitioners have responded to all of my queries (although there was some delay in informing the registry that the further information had been uploaded to the online system). The petitioners have clarified the details of the inscriptions which are to be placed at the base of each of the two window lights, and which are to be in the terms I have set out in paragraph 3 above. The original statement of significance has been updated to provide the required details of the existing church windows; and I have been supplied with coloured photographic images, and a plan of the church showing the position, of the four existing stained glass windows within the church. It is said that the proposed window does not create

any conflict with the colour or the designs of the existing windows and that this aspect was fully considered by the designer with input from the church community. There are currently eight main windows within the nave. On the north side of the nave, three of these contain stained glass and one is a plain window. There is no window opposite the site of the proposed new window but rather a door into the vestry. On the south side of the nave only one of the four windows currently contains stained glass and the other three have plain glass. If the present proposal is implemented there will be (running west to east along the south side of the nave) one plain glass window, then the existing stained glass window, then a plain window, and then the proposed stained glass window. The first window (running east to west) on the north side of the nave is in memory of Thomas Latham, his wife and their three daughters (all of whom are named) and contains two lights each with two scenes. There is a superscription spanning both lights: "These all died in faith"; and a central phrase spanning the two lights: "They looked for a city which hath foundations whose builder & maker is God'. The second window on the north side is of plain glass. The third window on the north side contains two lights, showing religious designs related to Whalley Abbey (which is nearby) and motifs apparently relating to music and drama. Each light is in memory of a separate local individual said to be related to the same theme. The left light inscription reads: "In memory of Arthur Frankland 1888-1968"; and the right light inscription reads: "In memory of Alan Robert Hutchinson 1923 – 1984". The final window on the north side is now an internal window for the choir vestry and the scene depicts a colourful tree with children and Jesus. It is said to be called the Edward Bear window because it reflects the community's work of the same name for children in the parish. The inscription running across the base of the two lights states: "Let the children come to me: for to such belongs the kingdom of God"; and there is a reference to "John and Florence Earnshaw 2002" who are said to have funded the window. On the south side of the church (running west to east) the first and third windows are of plain glass. The only existing stained glass window is the second which bears no inscription but contains two lights with very colourful pictures including the cross keys of St Peter, which is the name of the nearby Church in Simonstone (now in the same parish), and the well-known red rose of Lancashire.

8. As regards the Church Building Officer's comments about the design of the proposed window, the petitioners state that they feel that the choice of saints is totally appropriate. The choice was discussed from the outset during early meetings between the designers and the churchwardens. The church is said to host St George's Day celebrations. St George is the patron saint of England; and the church is part of the Church of England. Lord Waddington was very heavily involved in this country's parliament for a large proportion of his life of service, so it is said to be entirely fitting. There is said to have been suitable and sufficient involvement with the parish throughout the pre-application process, in addition to the formal legally required faculty notice being displayed, as part of the openness of the petitioners' communication within the parish. There are said to have been discussions at several PCC meetings where full design details and pictures of the proposals were presented. These have also been openly shared with parishioners. The PCC were fully apprised of the matter and they voted unanimously in favour of the design. The petitioners published the consultation

on the main church door and they invited the worshippers and other parishioners to object if necessary yet there have been no such objections. As regards the “general principle” that living donors are not commemorated in stained glass and other church artworks, again the PCC are said to have been fully aware of this and even to have discussed it but, as the PCC minutes show, it was in favour of this proposal. It is said that communications about the proposal have been very open and that the priest-in-charge has also spoken to and met former Read resident, Baron Waddington of Read, regarding them working together in harmony for this mutually beneficial proposal

9. The decision I have to make is governed by the authority of the Court of Arches in the leading case of *Re St Alkmund, Duffield* [2013] Fam 158. Proposed changes to a listed church building (of whatever grade) need to be addressed by reference to a series of questions, namely:

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 the answer to question (1) is “no”, the ordinary presumption in faculty proceedings “in favour of things as they stand” is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals. Questions 3, 4 and 5 do not arise.

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 special 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 is to a building which is listed Grade I or II*, where serious harm should only exceptionally be allowed.

10. *In re St John the Baptist, Penshurst* [2015] PTSR D40 the Court of Arches confirmed the approach it had laid down in *Duffield* for the determination of faculty petitions affecting listed buildings. At paragraph 22 it made four observations about the *Duffield* questions:

(a) Question (1) cannot be answered without prior consideration of what is the special architectural and/or historic interest of the listed church. That is why each of those matters was specifically addressed in *Duffield* paragraphs 57-58, the court having already found in paragraph 52(i) that “the chancellor fell into a material error in failing to identify what was the special character and historic interest of the church as a whole (including the appearance of the chancel) and then to consider whether there would be an overall adverse effect by reason of the proposed change”.

(b) In answering questions (1) and (3), the particular grading of the listed church is highly relevant, whether or not serious harm will be occasioned. That is why in *Duffield* paragraph 56 the court's analysis of the effect on the character of the listed building referred to "the starting point...that this is a grade I listed building".

(c) In answering question (4), what matters are the elements which comprise the justification, including justification falling short of need or necessity (see *Duffield* paragraphs 85-86)? That is why the document setting out the justification for the proposals is now described in rule 4.3(1)(b) of the FJR 2015 as a document "commonly known as a 'statement of needs'" ..., in recognition that it is not confined to needs strictly so-called.

(d) Questions (1), (3) and (5) are directed at the effect of the works on the character of the listed building, rather than the effects of alteration, removal or disposal on a particular article.

11. In the recent case of *Re St Peter, Shipton Bellinger* [2016] Fam 193 the Court of Arches added (at paragraph 48) that when applying the *Duffield* questions, chancellors might find it helpful at all stages to bear in mind (if they were not doing so already) that the desirability of preserving the listed church or its setting or any features of special architectural interest which it possessed was a consideration of considerable importance or weight. In the light of the terms of section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the tenor of paragraphs 40 to 47 of the judgment, I consider that the words "or historic" should be treated as inserted between the words "architectural" and "interest" in this passage.
12. I am enjoined to consider whether the proposed works will adversely affect the character of this church and its setting not in the abstract but rather as "a building of special architectural or historic interest". The Church Buildings Officer was entirely correct to point out that the original statement of significance provided inadequate context for the proposed window. There was a need for information about any existing stained glass in the church, including the themes of their imagery and their style and their colouring, as the design of the proposed new window needed to take these factors into account so that it was not incongruous or out-of-keeping with the existing church building. However, that omission has now been rectified. Having carefully considered the plans, the design notes, the photographic images of the existing stained glass windows and the listing particulars of this church, together with the other documents submitted in support of the faculty application, I am satisfied that the proposed works will not alter this Grade II church so as adversely to affect its character or its setting as a building of special architectural or historic interest (notwithstanding that the DAC appears to have taken a different view). All that is proposed is the introduction of a single stained glass window with two lights in an extremely attractive style of design to replace an existing plain glass window of the same dimensions and profile. I am satisfied that both the design and the inscriptions are appropriate and fitting and that the new window will complement the existing stained glass windows within the nave. After the

installation of the new window, the church will continue to be of special architectural and historical interest to the same degree, and in the same way, as at present, with none of its special architectural and historical features, or its setting, being adversely affected. Indeed, I consider the design of the proposed window to be so attractive that it will positively enhance the appearance of the interior of the nave of the church, with no detrimental effect upon the external appearance of the church. It follows that I do not consider that I am required to direct that special notice of this petition should be given to the Victorian Society.

13. I recognise the general principle that living donors should not be commemorated in stained glass or other church artworks. The principle is an important one. A church is a house of God and does not exist for the glorification of living individuals. No-one should think that they can purchase a memorial to themselves. However, whilst it is important to uphold the principle, in my judgment it is possible to make exceptions; and the present is an appropriately exceptional case. The donor is a man of great distinction in political and public life who has held one of the great offices of state (Home Secretary). According to his entry in “Who’s Who” his last public office ended some 20 years ago, he has retired from the House of Lords, and he is now 87 years of age. He has served as a Deputy Lieutenant of the County of Lancashire, and he has close connections to the parish. Indeed, the title of his life barony is Lord Waddington of Read. He is a true son of the parish, which wishes to accept his gift and to honour him. In my judgment, it may serve as an inspiration to young persons to know that someone from their parish has served with distinction in public life. Whilst recognising that such cases must be the exception, this court should not erect unnecessary barriers to the fulfilment of the wishes of a parish where the implementation of those wishes would positively enhance the appearance and character of the parish church.
14. Since I am entirely satisfied that the installation of the proposed stained glass window will not result in any harm to the significance of the church as a building of special architectural or historic interest, 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. In the instant case, I am entirely satisfied that the ordinary presumption in favour of things as they stand is rebutted for the reasons I have already given. Questions 3, 4 and 5 of the *Duffield* questions therefore do not arise and do not fall to be considered by me.
15. I will therefore direct that a faculty be issued on condition that:
 - (1) the works are carried out within 12 months of the date of the faculty;
 - (2) the window lights are in the form of the existing window design and that the inscriptions are in the terms set out in paragraph 3 above (although I would be content for the passage from Psalm 46 to take the form that appears in the Authorised King James version of the Bible which, beginning “God is our refuge and strength ...”, more fully accords with Lord Waddington’s motto); and

(3) the church's insurance company is notified and approves of the works before they commence and they are carried out in accordance with any requirements of the church's insurers.

His Honour Judge David Hodge QC
Deputy Chancellor
20th January 2017