

IN THE CONSISTORY COURT OF THE DIOCESE OF NEWCASTLE

The Churchyard of St Paul the Apostle, Choppington and St Peter's Churchyard, West Sleekburn, in the Parish of Choppington.

Reasons for Grant of Faculty

1. In this matter Revd Terry Moat and Mr John Kenneth Ritchie (Churchwarden of St Paul the Apostle, Choppington) seek a faculty authorising various works. The petition (which is dated 6 December 2016) falls into four parts. The first paragraph seeks a retrospective confirmatory faculty to authorise the temporary laying flat of fifty one lawn memorials which were laid flat after a health and safety survey in September 2015. The second and third paragraphs seek authority to lay flat on a temporary basis any memorials which are found to be unsafe following health and safety surveys to take place in 2016 in both churchyards. The fourth paragraph seeks permission permanently to dispose of and recycle a pew previously removed on a temporary basis pursuant to an Archdeacon's Licence.
2. The disposal of and recycling of the pew is entirely uncontroversial and I will grant a faculty in relation to that and not refer to it again. The question of the laying flat of the headstones both in the past and in the future is anything but uncontroversial and there are a number of objectors to the petition.
3. The background to this case is that in 2015, following an annual inspection, 51 lawn memorials in St Paul's churchyard were laid flat either by or on the authority of Revd Moat and Mr Ritchie. It is apparent from the material before me that that action caused a good deal of disquiet, unhappiness and upset amongst local residents and, in particular, those who had family or other connections with those to whom the headstones related. It is suggested in the material that there was a good deal of comment on social media, some of which was inaccurate.

4. Following the publication of the public notice in relation to the petition objections were raised by 12 persons (1 objection on behalf of 3 persons, 2 on behalf of 2 persons and 5 individual objections). The objections, between them, raised a large number of matters. Some raised general questions about the state of the churchyard but the principal theme running through the objections was the fact that no notice had been given to the families of those whom the headstones commemorated. In addition queries were raised about the expertise of those who had decided that the memorials were unsafe and objections were made to permission being sought retrospectively. There were also early objections to the physical display of the public notice, which was said to be at a height which made it difficult to read but – following advice from the Diocesan Registrar - a further public notice was displayed which remedied those objections.
5. Following receipt of the notices of objection all of the objectors were contacted in accordance with the Faculty Jurisdiction Rules 2015 to enquire whether they wished to become party opponents or simply to have their objections taken into account by myself. No objector has chosen to become a party opponent and I therefore proceed in this case by taking their objections into account.
6. As no objector chose to be a party opponent the Petitioners were (in accordance with Rule 10.5 (1) (b)) invited to comment on all of the objectors' letters and did so in a response dated 8 April 2017.
7. The response of the Petitioners includes a number of documents seeking to demonstrate that the practice of having an annual health and safety inspection in the churchyards and the laying flat of headstones found to be in a dangerous condition has been carried out for many years. The response also includes a letter (undated) but said to be sent by email to one of the objectors responding to her concerns and complaints and setting out in considerable detail the approach of the petitioners and the reasons behind the laying flat of the headstones. Further material included is a letter of 27 July 2012 written to three ladies (at least one of whom appears to be one of the objectors) dealing with a number of matters in relation to St Paul's

graveyard and in which it is stated that if a headstone is found to be unsafe it will be laid flat, notice given by way of a notice on the main gate to the churchyard and that then responsibility for the repair or reinstatement of the headstone lies with the family, having sought the necessary permission from the Vicar.

8. The Petitioners also include a pro forma letter dated October 2015 that was sent to the last known address of the persons whose headstones had been laid flat following the inspection that year, inviting a response if they were a relative of the deceased or for the letter to be passed on or information given if they were not, but knew of the whereabouts of a relative. That letter set out the reasons for the headstone having had to be laid flat and gave information about what could be done to rectify the position. It was written in careful terms and recognised that the laying flat of a headstone could be distressing for family members. A copy of the notice displayed on the main gate of the graveyard and the list of headstones is also enclosed.
9. The Petitioners also include the original letter sent with the faculty application and lay heavy stress on the fact that the health and safety of users of and visitors to the churchyards were their primary concern. In the pro forma letter and in their response to the matters raised by the objectors the Petitioners make clear that headstones have only been laid flat if they were “completely loose”. The pro forma letter states: “We only lay monuments down when there is absolutely no resistance. If they only wobble, we will advise those concerned that repair work will be needed to stabilise and secure the memorial to its base”.
10. In their letter of 20 January 2017 the Petitioners state that the process of an annual inspection, the laying down of unsafe headstones and the publication at the main gate of the churchyard of the names of those affected has taken place for at least 10 – 15 years. They state that in 2009 some 12 – 15 names were posted in the notice at that gate; in 2010 37 names were posted and in the years between 2010 and 2015 “half a dozen or less names posted”.

11. What was not made clear was how many, if any, persons were contacted at any time in accordance with what is stated in the pro forma letter of October 2015 - "If they only wobble, we will advise those concerned that repair work will be needed to stabilise and secure the memorial to its base".

12. Having read all of the material that was originally supplied, before I made a decision in this matter I felt that I needed certain further information and, in Directions dated 30 June 2017, I required the Petitioners to supply me with that information by way of answers to the following questions:-

1. Following the Health and Safety Inspection of 2014 how many headstones were found to "wobble" to the extent that a family was contacted for remedial action to be taken, but not to be "completely loose" so as to be laid flat?

2. How many and what responses were received in relation any such contacts?

3. Following the Health and Safety Inspection of 2015 how many headstones were found to "wobble" to the extent that a family was contacted for remedial action to be taken, but not to be "completely loose" so as to be laid flat?

4. How many and what responses have been received in relation to any such contacts?

5. Has any Health and Safety Inspection taken place since the inspection of 2015?

6. If so, what have been the results of such an inspection?

7. Is there any regime of regular inspections and monitoring of the headstones in the churchyards, other than the requisite annual inspection for insurance purposes?

8. If so, what is that regime?

13. By a letter dated 19 July 2017 the Petitioners replied with the following answers to those questions: in response to Q1 – "None"; Q2 – "None"; Q3 – "Four"; Q4 – None; Q5 – "No"; Q6 – not answered; Q7 – "No". The Petitioners expanded on their answers in a lengthy letter. So far as the answer to Question 3 was concerned it was said that in 2015 one Lawn Memorial was identified as "wobbly" and "the family was to be contacted, however the Churchwarden had not followed this up and has subsequently lost that record". Two older memorials

from the 19th and early 20th century which were very large in nature had been taped with black and yellow tape to indicate that they were loose and a large wooden Celtic cross was also wobbly. Those memorials were so old that there was no possibility of contacting the families.

14. I have no doubt from the totality of the material before me that at all times the Petitioners have believed that they have acted entirely properly and have taken the actions that they have sincerely believing that they were acting in the interests of the safety of visitors to the graveyards in question. They recognise that communication may have been a problem and in their letter accompanying the petition state that they are now aware that prior warning of the annual test is sensible and will be undertaken in the future – although they also point out elsewhere that the annual tests have been discussed at public meetings and have taken place for many years.

15. I am, however, troubled by the fact that following the annual inspection in 2014 there were no memorials that were found to be “wobbly” to the extent that families were contacted but by the 2015 inspection 51 lawn memorials were considered to be “completely loose” so that they were laid flat. It seems to me to be remarkable that in the space of a year such a large number of memorials should have gone from not being at all “wobbly” to being completely loose. I am further troubled by the fact that one memorial was identified as “wobbly” and the family were to be contacted, but that was not followed up and the record has now been lost.

16. It is now, of course, impossible to tell whether the judgement made by the Petitioners about any individual headstone that was laid flat was justified by the state of that particular headstone or whether the same judgement would have been reached by others. It is also not possible to say whether the state of any headstone could safely have been dealt with by a temporary measure – such as cordoning off or staking – whilst the family of the individual was contacted to effect repairs. The fact that the two older memorials were taped with black and yellow tape to indicate that they were loose rather suggests that some such measures might have been possible.

17. I repeat that I have no doubt whatsoever of the sincerity and good intentions of the Petitioners at all times but all of the material that I have seen rather suggests that others might well have come to a different judgement about the necessity of laying flat the headstones in question in 2015 or taken different measures.
18. There is much advice available to those who have the responsibility for graveyards available from a variety of sources, on the Church of England and government websites. I accept that there is no definitive regime that applies nationwide and – inevitably – the condition and safety of any individual headstone will ultimately be a matter of judgement. However it must be borne in mind that the risk of injury from a headstone (and perhaps in particular from a lawn headstone) is low and there must be a careful balancing of the risk, the steps necessary to deal with such risk and the extreme sensitivity of dealing with a headstone by laying flat without prior notification to the family and attempts to rectify any defect.
19. Having studied all of the material before me with care and accepting as I do that at all times the Petitioners have acted entirely sincerely and with complete bona fides, I am prepared to grant a retrospective faculty in respect of the temporary laying flat of the 51 headstones in 2015. The petition (dated 6 December 2016) seeks authority for the laying flat of any headstones found to be unsafe in the Health and Safety survey to take place in 2016. Clearly the effluxion of time has rendered that out of date and the Petitioners, in their letter responding to the questions I asked, say that there has been no further inspection since 2015 but that one will take place in 2017.
20. In the light of all of the material before me and in order to deal with the – albeit slight – risk of injury should any particular headstone be found to be in an immediately dangerous condition I am prepared to authorise the temporary laying flat of any such headstone for the remainder of 2017 but, given the history of this matter, I make it a proviso that no headstone can be laid flat without the express permission of the Archdeacon of Northumberland and I expect that

the Petitioners will involve the Archdeacon and seek advice from him in relation to the general management of the churchyards.

Euan Duff
Chancellor
11 September 2017.