

**RUARDEAN, ST.JOHN THE BAPTIST**

**FACULTY FOR THE EXTENSION OF THE CHURCHYARD AND REMOVAL OF A LINE OF TREES; WITH REMOVAL OF BOUNDARY FENCE AND REPAIR WORKS TO RETAINING WALL**

1. The Rector of Drybrook, Lydbrook & Ruardean, the Revd. Clare Edwards; the two churchwardens, Mr Rob Young and Mrs Sally Parker, and the Parochial Church Council, by a resolution passed unanimously on the 17<sup>th</sup> May 2019, support a Faculty application made on their behalf on the 7<sup>th</sup> August 2019 by the Rt.Revd. Christopher Hill, honorary assistant bishop in the Diocese of Gloucester, concerning the extension of the churchyard at the Church of St. John the Baptist at Ruardean, and associated works including the removal of a line of trees and a fence and the repair of a retaining wall.
2. In the course of my consideration of the faculty application, I held a View at the churchyard on the 3<sup>rd</sup> January 2020, attended by the above named persons and members of the PCC, together with the Chairman of the Parish Council, Ralph Cole, and Andrew Gardiner, who has made a written objection to the removal of the line of trees, although he has not sought to become a formal objector.
3. I am grateful to all who attended the View and who assisted me in understanding the background to the application, and some of the finer details. I am particularly grateful to Hilary Hill, member of the PCC, for providing her working drawings showing the location of the trees, existing graves and memorials.

The background and history of the church, churchyard and surrounding area:

4. The church has ancient origins going back to at least the eleventh and twelfth centuries. It is now a listed Grade II\* building. Its churchyard is well tended and has gradually been extended over the years. Due to the hill slope down from the main road and the church, the churchyard extensions have taken the form of terraces with a range of gentle or steep slopes between each terrace. At the south-west end of the existing churchyard, there is a length of retaining stone wall (in a partial state of disrepair) protecting the edge of the lowest terrace. There are three individual conifer or cedar trees on that terrace; close to the brow of that terrace, and the churchyard also has a number of very large mature trees closer to the church, which are not affected by this application.
5. The boundary of the current churchyard, beyond which the extension is planned, lies downhill from the church, beyond that terrace with the stone retaining wall, and runs diagonally from south west to north east. It is marked by dilapidated

and leaning concrete posts linked with the remains of an old wire fence, together with a line of trees, and a few erratic stone blocks which may have come from an old wall. At the furthest south west end of this line of trees, there are three ash trees and a small holly tree, which are in need of some lopping, tidying and shaping work, but which will not be affected by this application.

6. The remainder of the trees along the line of the old fence are conifers, variously described in the papers as *thuja plicata* or cypresses or western red cedars. These were planted in 1948 to form a hedge at the then boundary of the churchyard. For ease of reference, I will describe them as conifers. Some 44 of these remain, interspersed with 13 stumps where some of the conifers have died or fallen in the intervening years. Hilary Hill's drawing marks 16 trees as having been previously marked for removal, including 2 which are interspaced between the ash trees. Many of the conifers are leaning at angles. None of the conifers is subject to a tree preservation order and I note that the Forest of Dean district council declined to make any fresh TPOs in June 2019, when they considered the matter, thus paving the way for removal of the line of conifers, if approved in this Faculty application.
7. I also note that the growing conifers have now reached some 18 metres in height. At some stage they were radically cut back to a height of about 2 metres, and because of that, the resulting regrowth has been by way of spreading limbs, many of which are spindly, and which are interknit with other trees and not necessarily self-supporting. It was apparent at the View that there was a considerable amount of dead wood within the line of conifers, and I was told that branches occasionally fall on graves during high winds such that there is real concern about the potential danger to persons visiting the churchyard.
8. In 2002, a strip of land on the other side of the line of conifers, was bought with a view to it being used later as an extension to the churchyard. It measures some 13 metres wide and about 103 metres long (although of irregular shape at either end). It is separated from the grassland beyond by a post and rail fence with wire netting which was erected at the time of purchase. The strip has lain fallow and is now somewhat littered with branches, stones and other debris. I commended those who had cleared some of the brambles and nettles which had taken root over the intervening years and enabled the View to be productive.
9. Beyond the post and rail fence lies a field (currently grazed by sheep) which includes the remains of a crenellated manor, known as Ruardean Castle, which is a Scheduled Ancient Monument (NHLE1002098). The archaeological report from Worcestershire Archaeology mentions some limited Roman finds. I was also advised that Iron Age remains have been identified from the site, suggesting an even earlier history.
10. A small section of the mediaeval stonework of Ruardean Castle remains visible

above the irregular ground surface about 150 metres from the churchyard, and earthworks suggest further underlying features. These have been recently excavated in 2018 and 2019 by Worcestershire Archaeology, and publication of their full report is awaited. A passer-by in the churchyard would observe the mound and might well desire to visit the site, particularly if provided with information about its historic associations. The post and rail fence includes a metal kissing gate which would allow access from the churchyard extension onto the field and the historic site beyond. There is no public right of way to the site, but I was advised that the landowners, Mr & Mrs Freeman, allow access to the site to view the Scheduled Monument.

11. Historic England were consulted during the pre-application process. In their letter of the 2<sup>nd</sup> May 2019, Melanie Barge, Inspector of Ancient Monuments, stated that the removal of the line of conifers would be welcome as it would re-establish the visual link between the church and the castle and would allow visitors better to understand the early origins of Ruardean and how important it was in the mediaeval period.
12. Over the time since 2002, the current churchyard has become filled to near capacity, with fewer than 5 grave spaces remaining. It is now urgent that there should be sufficient burial plots to meet local demand.
13. Formal permission for change of use of the strip of land to become an additional burial ground was granted under the Town & Country Planning Act 1990, by the Forest of Dean District Council on the 5<sup>th</sup> December 2019, subject to reasonable conditions. The grant of that permission appears to have had the unfortunate outcome that the local paper, The Forester, printed an article in the issue for the 18<sup>th</sup> December 2019 suggesting that the removal of the conifers was going ahead, and failing to recognise that this Faculty application was still outstanding. I have accepted the assurance of the Petitioner that the article had not been generated or approved by anyone connected with the church or the PCC.

The faculty application, supportive reports and the objection:

14. Notice of the Petition dated the 7<sup>th</sup> August 2019 was displayed on both a notice board inside the church and also on the noticeboard outside the church between the 6<sup>th</sup> September 2019 and the 6<sup>th</sup> October 2019, and has been so certified by the Petitioner. I am therefore satisfied that the faculty requirements for notice have been met.
15. In brief, the Petition is to establish the extension of the churchyard on the new strip of land. The plan would be to retain the 3 ash trees and the holly at the south western end of the row of trees, but to fell the remainder of the conifer trees, with the roots not being removed due to the risk of damaging the adjoining graves and the possibility of there being a number of unmarked children's graves along the tree line. The old fence concrete posts and wires

would be removed, and any loose stones would be set aside. A wild-flower garden would be established along the line of the conifers. An alternative double planted hedge of such native species as hazel, common hawthorn, blackthorn, holly, pedunculate oak, common gorse and dogwood would be established along the post and rail fence on the far side of the new strip. The current path within the churchyard would be extended across the strip to the kissing gate. Up to 3 benches would be provided for sitting.

16. Advice about the trees, habitat and fauna has been sought and implemented in the plans from: the DAC tree adviser, Mrs Anna Jones; the Conservation Officer of the Forest of Dean Council; and Acer Ecology. I have carefully considered the latter's report, particularly when observing each of the trees in situ.
17. Given the potential historical associations, an exploratory archaeological dig was commissioned in July 2019 with Worcestershire Archaeology, involving the cutting of two trenches in the strip of new land. One trench took a particular look at the feature which had been identified on an earlier LIDAR survey as a 'holloway': perhaps indicating an ancient track between castle and church. The outcome of the dig gave some support to the holloway theory, and the finding of a sherd of sandstone-tempered ware pottery and six fragments of iron bloomery slag were thought to support 12<sup>th</sup> to 14<sup>th</sup> century associations.
18. Only one letter of objection was received by the Registry. This was from Andrew Gardiner, dated the 6<sup>th</sup> October 2019. He explained:

*"... I remain a great supporter of the proposed project apart from the rather clinical removal of the forty mature fir trees.*

*Firstly, these trees are a wonderful wildlife sanctuary. Many bird species make their nests in the trees and use them for shelter. Local people will also testify that the trees are used by owls that call to each other every night.*

*Secondly, they were originally planted as a much-needed windbreak from the strong winds that rise up over the land from the River Wye, and today, they continue to perform excellently in this respect. The churchyard would be indeed very exposed without the trees in place. The proposed hedge north of the existing treeline would never perform nearly as well as the existing trees.*

*Thirdly, to remove such well-established, carbon storing trees in this day and age of climate change awareness would, I feel, be quite foolish, incorrect and morally wrong.*

*I have already written to those working hard on this project explaining that their argument about the trees not being native species is a futile point given that here in the Forest of Dean, this aspect applies to the great majority of our trees.*

*Finally, in the event that my words continue to fall unheard, I ask once again that could we at least find a compromise by retaining a dozen or so of the trees to ensure that the wildlife sanctuary, the windbreak and environmentally friendly aspects of the trees are not lost. Retaining some of the trees would also allow the village to retain their aesthetic value for the foreseeable future."*
19. Mr Gardiner was given the opportunity to be a party opponent by letter dated the 11<sup>th</sup> October 2019. No reply was received by the Registry from him.
20. The Petitioner responded to Mr Gardiner's letter on the 7<sup>th</sup> November 2019,

setting out his reasoned contrary points. I understand this was approved by all PCC members who responded to the Rector's request for comments. In addition to the countering of Mr Gardiner's points by comparison between the proposed new hedge species and the existing tree line (an exercise made persuasive by the Acer Ecology evaluation and report) the Petitioner accepted that the original plan had been to retain a single specimen of the conifers at the north east end of the line to 'frame the view', but that the DAC tree specialist had thought that might not be possible, given the condition and shape of the trees once the line had been otherwise felled.

21. In the light of there being a single informal objection to the proposal to fell the line of conifers, I concluded there was no requirement to hold a consistory court. However, I had a number of questions arising from the papers which I felt could be most expeditiously dealt with during the course of a View of the site. In reaching that I decision, I took into account the fact that any tree felling would ideally need to take place before the nesting season: by the end of February at the latest, and preferably before the end of January. I felt that relying on communication of questions and answers might slow the process.
22. The View also had the advantage of allowing me to speak to Mr Gardiner to discuss his concerns. I gave him an opportunity to tell me anything he wished about the proposal, in an informal setting, with my pupil kindly taking a note. He reiterated the points raised in his letter, with added emphasis on his concerns about climate change, given current events in Australia. He encouraged me to allow for as many trees as possible to be retained. He declined to remain during the remainder of the View, while I had discussions with the other interested parties, as he feared he would become upset. (I was, though, able to take the opportunity to speak to him about a separate matter concerning his late brother's grave memorial stone, on behalf of the Chancellor.)

Specific issues considered at the View: the retaining wall and the path extension:

23. Amongst the issues on which I had questions, the situation of the terrace and its retaining wall to the south-west of the current churchyard was particularly troubling. The View confirmed my concerns.
24. The furthest section (towards the south-west corner) of the retaining wall is in good order, topped with side on slabs. There is a single conifer and a single cedar tree on the upper terrace at this point, whose roots may compromise its solidity in the future. This section is topped with a metal railing (which appears to be made from scaffolding poles) to prevent falls over the edge of the terrace.
25. The next section is one where the retaining wall has been demolished more or less entirely, and the bank of the terrace appears to be loosely held in place by vegetation (elder etc.) and the roots of the very large cedar tree which was previously felled. (I have not explored the circumstances in which that occurred,

as they are not important at this point.) My attention was drawn to the fact that the post and rail fence on the far side of the strip of land had been damaged when the cedar came down, and will need to be repaired in any event, to avoid the ingress of enterprising sheep. The upper edge of the terrace at this point has lost the metal railing, and is only protected by a length of temporary orange safety netting to warn the unwary. The stump of the cedar tree remains in place, but is clearly no longer growing.

26. The third section of the retaining wall, beyond the cedar stump, appears to have remained partially in place along the bank, but the top of the terrace is marked by a large pile of loose stones. These may have been the stones which previously comprised the retaining wall (although I could also see a stone which appeared to have an ashlar surface, possibly from an old monument). This pile of stones is not safe, and is clearly only temporary. Beyond the pile of stones and a third single conifer tree, the slope of the terrace is much gentler down to the level of the line of conifers. At that point, the need for a retaining wall reduced and faded. The three ash trees and the holly tree are close to that end of the retaining wall.
27. A further question which had troubled me prior to the View was the proposed path across the strip of land between the existing path through the current churchyard, and the kissing gate. The View confirmed that there was already an informal way through the line of conifers, at a point where there was an old stump of a dead conifer. I noted there was no notice confirming the status of the permissive pathway to the Scheduled Monument and encouraged the erection of a simple notice to avoid any persons claiming a public right of way.

#### Decision on the extension of the churchyard:

28. The case for the extension to the existing churchyard, onto the strip of land some 13 metres wide by some 103 metres long, is well made. There is a clear need for the churchyard to be extended to meet the demand for new burial plots; the local council has granted change of use planning permission; and there is no opposition to using the strip of land for such a purpose.
29. I will adopt the relevant conditions under which the planning permission for change of use was granted. These include a further archaeological survey in the area of the holloway prior to the digging of any graves. I explained to those at the View that this was a wise precaution to avoid future burials being disrupted by the need for archaeological investigation.

#### Discussion of the issues relating to the line of conifers and the decision:

30. The contentious issue is whether the line of some 44 conifers, and the remaining 13 stumps of others should be removed, together with the concrete fence posts and bases, and the remaining fence wire and occasional stones.

31. Having accepted that the churchyard needs to be extended, it would be inconsistent to leave the new area closed off from the existing graves by a substantial hedge, when it could be opened up and made part of the whole.
32. The question of the value of the line of conifers as habitat for birds and other fauna is clearly contentious when comparing Mr Gardiner's letter and the report of Acer Ecology of July 2019, which was undertaken during the nesting season. The ecology report (at paragraph 4.2) concluded: "*None of the habitats of the site qualify for 'Priority Habitats' of the UK Biodiversity Action Plan... Therefore, no habitats of greater than site value ... will be impacted by the proposed works. Planting of a mixed species hedge will ultimately increase the biodiversity value of the site post-development and is therefore considered to provide a positive net effect*". In terms of the value of the site to birds, the report (at paragraph 4.3.1) observed that the line of trees "... contains individual features that provide moderate foraging and nesting habitats for a range of species, but all of these features are widespread and common in the surrounding landscape." The report went on to consider the planting of the mixed species hedge and concluded: "*Overall this is considered to be an enhancement to birds in the long term*" Various recommendations were made to enhance the site for nesting birds in the short-term, with the installation of nesting boxes as well as a bat box.
33. I noted that although Mr Gardiner prayed in aid use by owls of the line of conifers, that the Petitioner's letter of the 7<sup>th</sup> November 2019 suggested that "*Owls are more likely to be using the Ash trees than the conifers. There are a number of mature cedars and other trees within the existing churchyard which are more likely to be used by owls.*" The ecological report made no mention of owls being sighted or using the line of conifers. This argument does not appear to have the force it might seem. I conclude that any owls are unlikely to be disadvantaged by the proposed works.
34. Having considered all the evidence before me, and my observations at the View (albeit out of the nesting season), I do not accept that the line of conifers has particular significance for fauna over and above the value of all the other trees in the immediate surroundings. I note the immediate ameliorating recommendations of the ecologists to encourage nesting elsewhere. I also note that the growing of a new hedge along the post and rail fence on the new boundary of the churchyard will, in due course, provide ample new habitat for birds. The variety of trees will, in due course, provide a range of different foodstuffs which are lacking in the line of conifers. I conclude that the mitigating measures will replace lost habitat appropriately.
35. The value of the line of conifers as a windbreak is questioned by the Petitioner, given that the trunks of the conifers are limited in the amount of cover between them, and through which wind could blow. Mr Gardiner discounts the

replacement value of the new hedge in this regard, but I conclude that the development of a hedge of varied species will provide better cover at ground level once the trees have begun to develop. In the long term that may well improve the wind barrier. (It was noticeable during the View how cold it was in the areas shadowed by the overhanging line of conifers, on the new strip of land – something to be taken into account, given the north west facing aspect of the strip of land.)

36. I recognise the strength of Mr Gardiner’s concerns about the ability of trees to capture carbon, and his general worries about climate change, but I base my decisions on the fact that the landscape needs to be managed, not as a copse or as woodland, but as a churchyard. I disagree with Mr Gardiner’s contention that the felling of any established tree at all is ‘foolish, incorrect and morally wrong’. It is a matter of good husbandry in the countryside to take a rational view about whether or not a growing resource should be retained. This is especially so when other trees of varied species are going to be planted on the new boundary, and when there will be the wild-flower garden to add to the diversity of plant species and habitat. This garden will, frankly, be a visual improvement compared with the current rather barren areas of ground along the line of the conifers, littered with pieces of stone and the remains of the old fence.
37. I can see that the description of the conifers as ‘non-native’ species of trees has irked Mr Gardiner, and he particularly reiterated this point when we spoke during the View. I do not regard it as a sound argument to say that trees which were planted in good faith in 1948 should now be removed simply because they are ‘non-native’. Whilst that argument may have been deployed in the course of earlier discussions, it is not something on which I place any weight at all. The general biodiversity policy in favour of native species might militate in favour of not planting any new conifers, now, but it does not require those that are already growing to be removed. Indeed, there are other single specimen trees in the churchyard which might fall into the non-native category and are certainly not being removed.
38. I considered whether there was any merit in the suggestion that some trees at the north-east end of the line of trees should be retained as specimen trees or as a group of trees. I looked at them carefully, and agreed with the reported oral advice of the DAC tree advisor that they are not likely to be suitable as specimen trees. They have grown cramped by the other trees in line, and having suffered weakening by being severely lopped and then allowed to develop into rather spindly trees. I wondered whether their ‘aesthetic’ value could be realised by cutting them back again to a lower height, but concluded that the resulting profiles would be very far from ‘aesthetic’. Any planting at the end of the wild-flower garden (which is not currently being proposed, but might be considered) would need to be with new trees rather than making an artificial feature of the old trees.

39. A further consideration is whether the remains of the conifers or parts of them could be put to alternative use within the churchyard. I was advised that the chippings generated in the felling process will be used along the line of the new hedge. This seems an excellent use.
40. I also suggested that some of the trees might have sufficiently strong timber to enable the wood to be used in the manufacture of the proposed benches in the churchyard. Whilst there is no certainty that the timber will be suitable, particularly due to the earlier lopping, I will direct that the possibility be explored. It is worth noting that the Western Red Cedar (*Thuja plicata*) is native to the Pacific Northwest of the USA where it can grow up to 60 metres in height in conditions of probably greater rainfall than prevail even in the Forest of Dean. It is British Columbia's official tree. That state's website reports:

*The western red cedar has been called "the cornerstone of Northwest Coast aboriginal culture" and has great spiritual significance. Coastal people used all parts of the tree. They used the wood for dugout canoes, house planks, bentwood boxes, clothing and many tools such as arrow shafts, masks and paddles. The inner bark made rope, clothing and baskets. The long arching branches were twisted into rope and baskets. It was also used for many medicines.*

*The wood is naturally durable and light in weight. It is used for house siding and interior panelling as well as outdoor furniture, decking and fencing. Because of its resistance to decay and insect damage, the wood of large, fallen trees remains sound for over 100 years. Even after 100 years, the wood can be salvaged and cut into shakes for roofs.*

41. In the light of all those strands of argument, I am satisfied that the line of conifers need to be felled, taking into account all the recommendations of the ecological report for ensuring that fauna are not injured in the process. I will direct that the 3 ash trees and the holly tree at the south west end shall be retained but that they should be actively managed to restore shape and safety to the line of trees.
42. I also will direct that the tree stumps be ground down to an appropriate depth, and that the roots be left in situ. Chippings from the felled trees can be included with the soil where the new hedge is to be planted.
43. It will be a condition that the ameliorating factors, such as the erecting of nesting boxes, will be established as soon as possible for the forthcoming nesting season.

Discussion of the issues relating to the wild-flower garden, the new path and the new hedge: the need for some further plans to be provided:

44. There is no disagreement, once the conifer trees have been felled and the land

cleared and levelled, that a wild-flower garden should be established in a linear strip between the current churchyard and the new extension.

45. The precise delineation of this garden is not specified in the papers, and I will invite details to be provided to the DAC for comment prior to planting. Additionally, if there is to be edging around the wild-flower garden plot, then this could be constructed from straight lengths of timber from the trees which are being felled.
46. The wild-flower garden will be traversed by the extension of the current path, to link with the kissing gate. A proper plan of the scheme for the laying of the path and its delineation from the garden on either side will need to be submitted to the DAC for comment.
47. This must include suitable signage to emphasise that a public right of way is not being created.
48. I am content with the proposals for the new hedge along the post and rail fence. Repairs to the fence will be needed first, in the section damaged when the red cedar was removed. The recommendations of Acer Ecology as to the species mix, including honeysuckle and wild roses, together with the comments of Natalie Fenner to the DAC tree adviser, Anna Jones, in her email of the 11<sup>th</sup> August 2019 are commended. I understand the Woodland Trust have already offered to provide 140 saplings, although many more plants will be needed.

Discussion of the issues relating to the stone wall:

49. The Faculty application recognises that the retaining stone wall at the south-west end of the current boundary will need to be repaired and rebuilt in the future.
50. Having considered it during my View, I concluded that repair work is in fact urgent, if the terrace, the graves and the three trees on that upper level are to be secured, and the edge of the terrace made safe to prevent falls.
51. A structural survey will need to take place as soon as possible to assess what must be repaired and rebuilt; how the pile of loose stones can be reused; and how the edge of the steep part of the terrace slope can be made safe to protect against accidental falls.
52. An archaeological survey of the wall should be added to the proposed scheme for the further excavation on the strip of land, and the archaeologist should be invited to include an assessment of the full length of the retaining wall and the pile of loose stones and to advise in writing whether the structure or stones have historical or archaeological significance which would affect their re-use in a repaired and rebuilt retaining wall.

53. Assuming no archaeological implications arise, it is likely that a scheme for the repair and rebuilding of the retaining wall can be formulated which will not require separate faculty permission.

The costs of the work; funding and insurance:

54. At the time of the Petition, it was estimated that the costs of the project would be £8,000, of which £3,000 was already held by the PCC. The ecological survey and the archaeological survey to date have accounted for just over £5,000 of the costs.
55. The felling of the trees and the minor ground works (presumably such as removal of the fence posts and levelling the land) were being offered free of charge by Mr Mervyn Freeman. (Given I require him to be asked to agree to provide some of the cut timber for use by the PCC in making benches etc, then he should be asked to confirm that he is not going to make a charge for his work, since some tree fellers off-set the costs of the works by the value of the timber they will acquire in the process.)
56. The Petitioner was satisfied that further costs would be covered by donations and fund raising activities. Given the uncertainties about the extent of the costs of repairing and rebuilding the retaining wall, this aspect of the matter will need to be kept under review by the Petitioner and the PCC.
57. As to insurance, there is a letter from Ecclesiastical Insurance Office of the 5<sup>th</sup> August 2019 acknowledging the planned works to the trees in the Churchyard, and a letter from Thomas Carroll insurance brokers to Mr Freeman of the 11<sup>th</sup> December 2018 setting out his liability insurance for his business. It will be necessary to ask him to confirm that the insurance cover was duly renewed on the 7<sup>th</sup> December 2019.
58. Given the somewhat dilapidated state of parts of the retaining wall, I direct that Ecclesiastical be advised about the plans to investigate the wall, including the name and other details of the surveyor and the archaeologist involved.

Faculty Decision:

The Court now grants a faculty authorising you to carry out the following works in accordance with the designs, plans and other documents accompanying the petition and subject to the conditions set out in the Schedule.

Description of works:

1. Extension of the churchyard onto the strip of land measuring some 13 metres by 103 metres to the north west of the existing churchyard in respect of which planning permission for change of use to a burial site was granted on the 5<sup>th</sup> December 2019 by the Forest of Dean District Council.

2. Planting a mixed species hedge along the line of the post and rail fence separating the churchyard extension from the field beyond.
3. Felling of the line of some 44 coniferous trees and some 13 stumps of former trees between the existing churchyard and the churchyard extension. This excludes the felling of the three ash trees and one holly tree (“the retained trees”) at the south west end of the line of trees.
4. Grinding of the felled trees and stumps to the recommended level below the ground surface, but leaving the root system intact.
5. Provision of benches or other outdoor furniture.
6. Removal of the fence wire, the concrete posts and below ground concrete foundations of the fence running along the line of the felled coniferous trees and the retained trees.
7. Levelling of the ground surface where the trees and stumps have been removed and the creation of a wild-flower garden along the line.
8. Extension of the existing path through the churchyard over the strip of land to the kissing gate.
9. Assessments of the retaining stone wall to the south-west of the line of trees by a surveyor and by an archaeologist as a matter of urgency to draw up a plan to repair and rebuild the retaining wall, and to make the area safe.

Conditions relating to the numbering in the description of works:

1. The churchyard extension:
  - (a) No burials shall take place prior to the consecration of the churchyard extension.
  - (b) The grant of planning permission of the 5<sup>th</sup> December 2019 was subject to a scheme of archaeological investigation by Worcestershire Archaeology dated October 2019 being carried out prior to the first burial. This is also a condition of this faculty.
  - (c) The grant of planning permission was subject to the churchyard extension being carried out in accordance with Section 5 of the ecological appraisal by Acer Ecology of July 2019. This is also a condition of this faculty.
  - (d) In particular, nesting boxes and a bat box as recommended by Acer Ecology at Paragraphs 5.2.2 and 5.2.3 shall be installed as soon as possible and in any event within 2 months from the date of this faculty.
2. The new hedge and boundary to the churchyard extension:
  - (a) Prior to the planting of any new hedge, the post and rail fence shall be

restored and its wire mesh mended in the section where it has been damaged by a falling tree.

- (b) Prior to the planting of the new hedge all branches, stones and other debris shall be cleared from the churchyard extension. The stones shall be set aside for reuse in the rebuilding of the retaining wall.
  - (c) The species mix of the new hedge shall be in accordance with Paragraph 5.2.1 of the ecological appraisal by Acer Ecology and shall avoid invasive species such as pussy willow.
  - (d) Chippings from the felling of the conifers shall be mulched with the soil when the new hedge is planted.
3. The felling of the line of conifers and stumps and works to the remaining trees:
- (a) Those felling the trees must be asked to agree in advance of the works that they will retain any sections of cut timber which could reasonably be utilised by the PCC to build benches, other appropriate outdoor furniture or (if required) surrounds for the wild-flower garden. (Advice shall be sought from the DAC in the event that there is disagreement about whether any particular section of cut timber is so usable.)
  - (b) Those felling the trees must confirm that their insurance cover with Thomas Carroll has been renewed as at the 7<sup>th</sup> December 2019 so as to cover the period of the works.
  - (c) The felling of the trees shall be carried out in accordance with the recommendations of Acer Ecology at Paragraph 5.1 as soon as possible and in any event prior to the end of February 2020 (to avoid the nesting season) provided that Condition 3(a) has not caused the tree feller to withdraw his offer of free felling.
  - (d) The trees shall be felled in such a way as to minimise the risk of damage to graves and memorials in the existing churchyard.
  - (e) The remaining trees: the three ash trees and the holly tree: shall be appropriately lopped and reshaped as individual specimen trees. The DAC tree advisor shall be invited to consider those individual trees and to give advice about the work that should be carried out.
4. The grinding of the stumps of the trees:
- (a) Advice shall be taken from an experienced tree surgeon as to the required depth to which the stumps should be ground.
  - (b) During the process of clearing the area along the line of the trees, it shall be borne in mind that there may be unmarked child graves in the vicinity of the trees and dating back perhaps half a century. Whilst it is unlikely that any traces of such burials would now remain, any evidence of burials shall be carefully noted on a plan of the area and all artefacts encountered shall be preserved so they may be appropriately reinterred in the wild-

flower garden.

5. The new benches or other outdoor furniture:
  - (a) Condition 3(c) shall apply to the sourcing of the timber for the manufacture of the new benches. Only in the event that no use can be made to the felled timber will any external sources of timber be considered.
  - (b) Designs for the proposed benches or other outdoor furniture and their planned layout shall be submitted to the DAC for consideration and approval, prior to work being commenced on their manufacture.
6. The removal of the old fence along the line of trees:
  - (a) Every effort shall be made to remove completely all foundations of the concrete posts, but Condition 4(b) shall also apply to this exercise.
  - (c) There are a number of isolated stones at ground level along the line of the fence. These are also to be removed and set aside, as they may be needed for repairing the retaining wall. In the event that the stones appear to form part of the foundations of a wall, then Condition 9(b) below shall be extended and the archaeologist shall additionally be asked to confirm whether the stones are of archaeological significance. If it is confirmed that they are not, then they can also be dug out and set aside for re-use.
7. Levelling the ground and creating the wild-flower garden:
  - (a) Condition 4(b) above applies to all works to the area along the line of the trees.
  - (b) Prior to laying out the wild-flower garden, a scale plan shall be provided to the DAC for consideration and approval, which shall identify exact dimensions of the garden and how it will be delineated to separate it from burial plots and to discourage persons from inadvertently walking on the area and damaging the wild-flowers.
  - (c) If the PCC wishes a section of the wild-flower garden to be designated for cremation burials, the appropriate formalities must be followed, with notice given to the Registry.
8. Extension of the churchyard path to the kissing gate:
  - (a) The scale plan at Condition 7(b) shall include details of the layout of the proposed path, including its intersection with the wild-flower garden.
  - (b) Appropriate notices shall be prominently displayed to ensure that there is no risk of the permissive footpath being designated a public right of way.
9. Assessment of the retaining wall with a view to repairing and rebuilding:
  - (a) It is recommended, as a matter of urgency, that a surveyor should be instructed to carry out a survey of the full length of the retaining wall and

the pile of loose stones to advise in writing on all pertinent matters including: (i) how best the retaining wall should be repaired so as to secure the stability of the terrace, graves, memorials and trees on the terrace and to prevent falls of stones onto the churchyard extension below; (ii) what use can be made in this process of the pile of loose stones and any stones retrieved from the line of trees or the tip in the proposed churchyard extension; and (iii) how to secure the safety of passers-by on the terrace to prevent falls over the edge of the terrace.

- (b) It is recommended that the archaeologists who will be carrying out the investigation, as set out in Condition 1(b), should be invited to include an assessment of the full length of the retaining wall and the pile of loose stones and to advise in writing whether the structure or stones have historical or archaeological significance which would affect their straightforward re-use in a repaired and rebuilt retaining wall.
- (c) The church insurers shall be advised about the plans to investigate the wall, including the name and other details of the surveyor and the archaeologist involved.

8<sup>th</sup> January 2020

Alicia Collinson, Deputy Chancellor