

**In the Consistory Court of the Diocese of Blackburn**

**In re St Michael, Grimsargh**

**His Honour Judge David Hodge QC, Deputy Chancellor**

1. This is a petition by the vicar and churchwardens of the parish church of St Michael, Grimsargh in the Archdeaconry of Lancaster for a faculty to introduce a new single lancet stained glass window, replacing an existing plain glass window of the same dimensions and profile, in commemoration of St. Michael's 300 year anniversary in 2016 and in memory of Nicholas James Cowell. No external works are proposed to the church building. The application was submitted via the online faculty system in July 2016 and it is therefore governed by the *Faculty Jurisdiction Rules 2015* ("the FJR 2015").
2. The new window is to be funded by a private donation from Mr and Mrs Cowell who are long-standing church members and, respectively, one of the churchwardens and the PCC secretary. They wish to introduce the window in memory of their son, Nicholas James Cowell, who was killed in a motorcycle accident in 2010 and, at the same time, to mark the three hundredth anniversary of the first construction of a church in Grimsargh. Lightworks Stained Glass of Clitheroe has been commissioned to design and produce the new single lancet stained glass window. The project brief provided by the donors asked specifically to make reference to the Holy Spirit as represented by a dove along with some form of visual representation of the church. They also wished for inscriptions referring both to the 300<sup>th</sup> anniversary and to the memory of their son. It was felt that the new window should be modern/contemporary in style to reflect the time of its production. This would also serve to complement an existing 1960s contemporary style stained glass window near to the intended position of the proposed new window. The existing window intended for glazing is situated within the north elevation of the church, towards the rear/west end of the nave. It is a single lancet measuring approximately 380 by 1520 mm and it has a simple trefoil arched head and is currently glazed with a traditional lead light in clear float glass. The proposed design includes the Holy Spirit Dove within the upper section of the window and a reference to the church itself in the form of a stylised representation of part of a large circular stone finial which can be found at the east end apex of the roof of the church's nave. Inscriptions referencing both the 300<sup>th</sup> anniversary and the memory of Nicholas are to be included within the lower section of the window and it is proposed that they should read:

"In celebration of 300 years of worship in this place  
1716 – 2016"

"In loving memory of Nicholas James Cowell  
1970 – 2010"

According to the Statement of Needs, “the proposed replacement of the small plain glass window on the north wall of the north aisle with one of a striking and modern coloured design will complement an existing window of similar modern symbolic design and colour on the same wall located behind the font”.

3. The PCC unanimously approved the proposal for the works at a meeting held on 4<sup>th</sup> July 2016. The DAC unconditionally recommended the works for approval by this court at a meeting held on 12 August 2016. In the DAC’s opinion the work was likely to affect the church as a building of special architectural or historic interest; but the DAC did not consider that rule 9.9 of the FJR 2015 required the publication of a notice on the diocesan website, presumably because the proposed works did not involve any alteration to or the extension of the exterior of the church (a view with which I concur). The DAC also recommended that the petitioners should consult Historic England, the Victorian Society and the Church Buildings Council. This has been duly done. In a letter dated 22<sup>nd</sup> August 2016 Historic England wrote that on the basis of the information provided, it did not consider that it was necessary for the application to be notified to Historic England under the relevant statutory provisions. In an email to the Vicar a Church Buildings Officer stated that the Church Buildings Council was content to defer to the DAC on the consideration of these proposals as the church was Grade II listed and, given the relatively modest size of the proposed window, the proposals would not appear to have a high impact on the significance of the church. However, the writer helpfully suggested that the consistory court would be assisted by being provided with some further information (and ideally photographs) of the other stained glass in the church, particularly as the draft statement referred to the modern design of the proposed window being informed by another window in the building. This suggestion was taken up by the applicants and I have been assisted by seeing both a plan of the church showing the locations of the existing and proposed stained glass windows and a photograph of the existing, and somewhat larger, modern stained glass window. In an email to the vicar dated 18<sup>th</sup> July 2016 the Churches Conservation Advisor of the Victorian Society stated that the Society did not wish to comment on the proposed works, adding that that should not be taken to imply support or approval.
4. Public notices of the application to the court were duly displayed, both inside and outside the church, from 21<sup>st</sup> August to 20<sup>th</sup> September 2016. No objections to the proposals have been notified to the Diocesan Registrar and the petition is therefore unopposed.
5. 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 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.

6. The Court of Arches in *In re St John the Baptist, Penshurst* (9 March 2015) has recently reaffirmed the approach to be taken in 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* paras 57-58, the court having already found in para 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* para 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* paras 85-86)? That is why the document setting out the justification for the proposals is now described in rule 3.3(1)(b) of the FJR 2013 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.”

7. The parish church of St Michael, Grimsargh was first listed as a Grade II building on 11 November 1966. The listing particulars of the church are as follows:

“Church, 1868-9, by Paley and Austin (Pevsner). Sneaked sandstone, slate roofs. West tower, nave, north aisle under parallel roof, chancel. Simple Decorated style. Three-stage tower with south-east stair turret, angle buttresses, battlements and pyramidal roof, has 3-light belfry louvres with moulded surrounds and hoodmoulds, and a stone spout projecting from the centre of the string course below the battlements on each side. Five-bay buttressed nave has a sill-band carried round the buttresses, windows of 2 cusped lights each, gabled porch to 2nd bay. Lower single-bay chancel in matching style has traceried east window of 3 lights under a hoodmould with figured stops. North aisle has square-headed windows of 2 cusped lights each, a vestry at the east end with a doorway on the north side and 2 cusped windows in the east gable; this and the aisle have one gargoyle each. Interior: 5-bay aisle arcade of octagonal columns with moulded capitals supporting moulded 2-centred arches; similarly moulded chancel arch with carved angels beneath the capitals; wagon roof supported by short wallposts rising from foliated corbels; chancel with moulded arched door to vestry and 2 sedilia with cusped trefoil heads.”

8. I am enjoined to consider whether the proposed works will adversely affect the character of this church not in the abstract but rather as “a building of special architectural or historic interest”. Having carefully considered the plans, the design brief, the photograph of the existing modern stained glass window and the listing particulars of this church, together with the other documents submitted with the faculty application, I am satisfied that the proposed works will not alter this Grade II church so as adversely to affect its character as a building of special architectural or historic interest. All that is proposed is the introduction of a single lancet stained glass memorial window in a contemporary 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 memorial inscriptions are appropriate and fitting and that the new window will complement the existing (and larger) modern stained glass window within the same north elevation, and slightly further to the east. 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 being adversely affected. I am entirely satisfied that the proposals, if implemented, will not result in any harm to the significance of the church as a building of special architectural or historic interest. Thus, 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 further entirely satisfied that the ordinary presumption in favour of things as they stand is rebutted for the reasons set out in the statement of needs (and cited at the end of paragraph 2 above). Questions 3, 4 and 5 of the *Duffield* questions therefore do not arise and do not fall to be considered by me.
9. I will therefore direct that a faculty be issued on condition:
  - (1) that the works are carried out within 6 months of the date of the faculty;

(2) that the window and the memorial inscriptions are in the form of the existing Lightworks Stained Glass design notes and drawing; and

(3) that the church's insurance company is notified and approves of the works before they commence.

His Honour Judge David Hodge QC  
Deputy Chancellor  
5<sup>th</sup> October 2016