

In the Consistory Court of the Diocese of Leeds

## In the matter of St Joseph and St James, Follifoot

### Judgment

1. This is a straightforward petition, seeking a faculty (a) to fell and grind out the roots of a holly tree; and (b) to repair a collapsed section of the churchyard wall.
2. The church of St Joseph and St James, Follifoot is a grade II listed building, and stands within the Follifoot Conservation Area.
3. The proposed works are recommended by the Diocesan Advisory Committee subject to the uncontroversial proviso that there be appropriate compensatory planting.
4. The holly tree has caused the damage to the wall, and lesser measures (such as rigorous pruning) have been rejected by the PCC, as the tree and its off shoots regrow speedily resulting in further damage to the wall as well as disturbance to adjacent graves. The parish has taken professional advice from a reputable tree specialist, and the proposal is supported by a detailed report from the parish's experienced inspecting architect.
5. The necessary formalities have been observed with Harrogate Borough Council and no tree preservation order has been made.
6. A local resident, who is on the electoral of the parish, emailed an objection in response to public notice. He contended:
  - i. that the removal of the tree was unnecessary;
  - ii. that judicious pruning would enable the wall to be rebuilt; and
  - iii. that the costs were excessive, unnecessary and should not be borne by the parish or the church.He offered to project manage and/or carry out the work, and said he would pay for it.
7. The registry sent the objector the customary letter under rule 10.3 of the Faculty Jurisdiction Rules 2015, inviting him to lodge written particulars of objection. He has not responded and accordingly the Court takes the content of his email into account in coming to a determination.
8. An email from the petitioners indicates that there was a positive meeting between representatives of the parish and the objector which failed to resolve the matter notwithstanding that everyone had the best wishes of the parish at heart. The objector indicated that he would not formally retract his objection, but nor would he make any further representations to the Court.
9. Pursuant to rule 14.1 of the Faculty Jurisdiction Rules 2015, I consider it expedient to determine this matter on written representations, the petitioners having already indicated

their preference for such a course. There is adequate material before the Court for the just determination of the matter.

10. The case for the removal of the tree and the reconstruction of the wall is overwhelming. I have been assisted by a number of high quality photographs evidencing the extent of the damage and the risk of future harm. The Court must give due weight to the opinion of professional tree specialists, the inspecting architect and the combined wisdom of the DAC. I am satisfied that nothing short of complete removal will sufficiently address the matter.
11. As to the costs of the works, there is nothing in the quotations to suggest that they may be excessive. It is not the function of the Consistory Court to micro-manage the decisions of a PCC in the discharge of its statutory and other functions. In the absence of irrationality or bad faith (which are neither alleged nor apparent) the Court will not interfere with the manner in which the PCC utilises its resources. The offers of practical and financial assistance from the objector may well be public spirited and generous but the PCC must also consider factors such as the professional quality of the work to be undertaken, performance warranties, and professional indemnity and public liability insurance cover. I decline to review the PCC's decision, but there is nothing in the papers to suggest anything other than scrupulous and responsible attention being given to the care and maintenance of the churchyard, and the safety of its visitors.
12. I therefore direct that a faculty pass the seal subject to a condition for replacement planting in terms to be agreed.
13. As the objector chose not to become a party to these proceedings, the Court cannot entertain an application that he pay some or all of the additional Court fees that have arisen. The costs must be borne in full by the parish. But I very much hope that the objector will stand by his generous offer and make a financial contribution towards the cost of the works, notwithstanding that he might have preferred a different outcome.