

into the church in 1885, the fact that it did not consist of a single continuous design, the fact that the proposals involved the alteration and removal of only parts of the wall and the fact that it was not a rare example of its kind. The public benefit that would result from creating a greater opening between the nave and chancel, enabling the introduction of arrangements for a nave altar, and the opening up of the view of an important tomb where part of the wall was to be removed, outweighed the harm. Other aspects of the proposals were held not to be harmful, or to involve only very modest harm, to the character of the church and were permitted. [Alexander McGregor]

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Re St Wilfrid, Davenham

Chester Consistory Court: Turner Ch, 11 December 2017

[2017] ECC Chr 2

Reservation of grave space – limited space – exceptionality

The petitioner sought a faculty reserving one of only two grave spaces remaining in the churchyard for the remains of himself and his wife. He had been heavily involved in church life for 16 years, including becoming a licensed reader in 2010. In 2010 the then incumbent had promised, and confirmed in writing, the reservation of a grave space for the petitioner and his wife, but no application for a faculty had been made. The Parochial Church Council (PCC) opposed the petition on the basis that another request for a reservation has been declined by the PCC (and a subsequent faculty application refused) in 2015 on the grounds that the churchyard was almost full. The chancellor accepted that the PCC had reached its view with some difficulty, recognising the unfortunate history, but concluding that it would be unfair to ignore the precedent which had been set in 2015.

The chancellor referred to the decision in *Re St Nicholas, Pevensey* (2003) 7 Ecc LJ 236 and confirmed that he would, but for the unusual circumstances of the case, have dismissed the petition on the basis that its grant would prejudice the right to burial in the future. Nevertheless, in the exercise of his discretion, the chancellor granted the faculty. The petitioner's particular contribution to parochial life was not the basis for the decision, although his and his wife's affection for the church and long-held aspiration to be buried there was the pastoral context in which a fair conclusion must be sought. The chancellor's principal concern was to mitigate the effect of unfortunate errors made in 2010 for which others were primarily responsible and for which the petitioner and his wife ought not now to be penalised. [RA]

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