

**The Bishop of Blackburn**  
*The Rt Revd Philip North*

The Ven. Mark Ireland  
Archdeacon of Blackburn

23<sup>rd</sup> May 2024

Dear Archdeacon,

**Removal of legal effects of consecration: Part of Calderstones Hospital Burial Ground (formerly the Whalley Lunatic Asylum Burial Ground)**

I refer to your application under section 92 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 for a direction that a designated portion of the Calderstones Hospital Burial Ground is not to be subject to the legal effects of consecration. The part of the Burial Ground to which the application applies is identified on the plan annexed to this letter as appendix A. For convenience I will refer hereafter to this designated portion as “the Land”.

Section 92 provides as follows:

**92 Power of bishop to remove legal effects of consecration**

- (1) This section applies where the bishop of a diocese, on the application of the archdeacon of an archdeaconry in the diocese in relation to a building or land which is in the archdeaconry and which is subject to the legal effects of consecration, is satisfied that—
- (a) the building or land is not held or controlled by an ecclesiastical corporation or a diocesan board of finance, and
  - (b) no purpose will be served by its remaining subject to the legal effects of consecration. [emphasis added]

Condition (a) is fulfilled because the Land is owned by a private company, Remembrance Parks Construction Limited. The principal question for determination, therefore, is under condition (b) namely whether any purpose will be served by the Land remaining subject to the legal effects of consecration.

Section 92 does not provide for a process of enquiry or other mechanism to be adopted when determining applications such as these. In this instance, your application followed a detailed investigation and report by Canon AG Ashton, Assistant Archdeacon, a copy which you supplied to me, together with its appendices. This documentation was placed on the diocesan website and copies provided to the Friends of Calderstones Cemetery. The public in general, and the Friends in particular, were given the opportunity of making representations to me concerning your application, as were the owners of the Land. Although public consultation is not required under section 92, I considered it prudent in order that my decision was fully informed. I was also mindful that when my predecessor as Bishop of Blackburn (Bishop Julian)

determined an earlier application in June 2019, he gave public notice and invited representations, and fairness required a similar approach be adopted on this occasion.

I have considered with care the many representations received at my office and at the registry, although I will not refer to them individually or in detail in this brief statement of my reasons.

The current application differs from the earlier one in a number of material particulars. First, the Land is considerably smaller than that under consideration by Bishop Julian. Secondly, the documentation before me is more extensive, particularly that concerning the likelihood of burials. The operative reason that Bishop Julian concluded that the application before him be rejected was that, on the information available at the time, there was speculation that there might be as many as 200-300 burials within the more extensive parcel of land that he had been invited to consider.

It is for me to determine the current application on the material before me. Some of the letters of objection suggest that Bishop Julian's decision is determinative and it is not open to me to entertain your application. That cannot be right. In paragraph 19 of his determination, Bishop Julian expressly left open the prospect of further applications, and went so far as to indicate that it would be helpful if future applications addressed, *inter alia* the issue of previous burials.

The original purpose of this private burial ground can be deduced from the Sentence of Consecration of 30 June 1916 executed by the suffragan Bishop of Burnley, acting as commissary for the Bishop of Manchester. It set aside and consecrated approximately three acres of land: a one-acre plot to be a burial ground for soldiers dying in Queen Mary Military Hospital and a larger two-acre plot for 'lunatics dying in Whalley Lunatic Asylum' together with the officers and servants of the asylum. The Land is entirely within the larger two-acre plot, namely the Whalley Asylum Burial Ground as it was then known. It comprises a compact and definable rectangular segment lying to the north of an access path which leads to the former Military Hospital burial ground.

What had been Whalley Asylum passed through various iterations until it became Calderstones Hospital, which has since closed and the site redeveloped. The Burial Ground was sold by the Regional Health Authority to a private developer in October 2000. Accordingly, there is no prospect of any future interment of human remains in the Burial Ground.

Your application proceeds on the basis there are no human remains in the Land (as opposed to elsewhere in the Burial Ground which will remain consecrated). I am conscious that this may not have been appreciated by many of the objectors whose representations are made on the mistaken premise that the graves of their loved ones lie in the area to be deconsecrated. This is not the case.

I am satisfied from the considerable investigations and research carried out since the matter was before Bishop Julian, that the prospect of any human remains being present in the Land is remote. The footprint is considerably less extensive than that under consideration in 2019. It can be concluded with certainty that the likelihood of there being 200-300 burials, which had caused Bishop Julian concern, has been eliminated.

Taking the objectors' representations at their highest there is a remote possibility of a handful of burials in the land in question. The presence of human remains does not preclude a direction under section 92. There is express provision in section 92(3)(a) for conditions to be imposed concerning the preservation of any human remains believed to be buried in it. Notwithstanding the speculation of the objectors, the totality of the evidence, both scientific and documentary, points to there being no human remains in the Land, and even if there were, a condition can be imposed requiring the reverent reburial within the part of the Burial Ground that is to remain consecrated.

Having regard to all the material before me, I have concluded that the Land has not been used for burials in the past and, since the closure of Calderstones Hospital, it will not be so used in the future. It is distinct and severable from the remainder of the Burial Ground which will continue to be consecrated. The graves of those buried there will be untouched and undisturbed. It is important that any misapprehension in this regard is corrected so people's minds can be set at rest. The legal effect of consecration will be removed only in respect of the Land subject to your application, which the weight of the available material indicates has not been used for burials in the past.

I do not consider that the continued consecration of this unused part of the Burial Ground is necessary to preserve the setting and ambience of the part which is to remain consecrated. There is a clear and distinct separation and there is no aesthetic reason why the relatively small part with which this application is concerned should remain subject to the legal effect of consecration.

Much of the objections is directed to the proposal to construct a crematorium on the Land. I do not think it appropriate that your application be used as a vehicle for re-litigating the grant of planning permission by Ribbles Valley Borough Council. It would amount to episcopal overreach if I were to address issues which are properly within the province of the democratically elected secular authorities. This includes, but is not limited to, whether the erection of a crematorium serves a public interest and whether increased traffic flow and other planning issues have been sufficiently considered. I have no competence to determine issues raised under section 5 of the Cremation Act 1902 regarding the proximity of crematoria to dwelling-houses and public highways. There is a presumption of regularity in respect of decisions taken by local planning authorities.

Equally, I do not consider it necessary to resolve the issue raised under section 30 of the Burial Act 1852. It is not open to me, more than a century later, to correct an alleged error by the consecrating bishop.

In the circumstances, I am satisfied that the two conditions set out in section 92(1) are both made out, and that I have power to make an Order directing that the Land is not subject to the legal effects of consecration. I remind myself that this power is discretionary ('the bishop may ... direct' (section 92(2))), and falls to be exercised having regard to all relevant circumstances.

I therefore accede to your application and direct, pursuant to section 92(2) of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, that the Land is not to be subject to the legal effect of consecration.

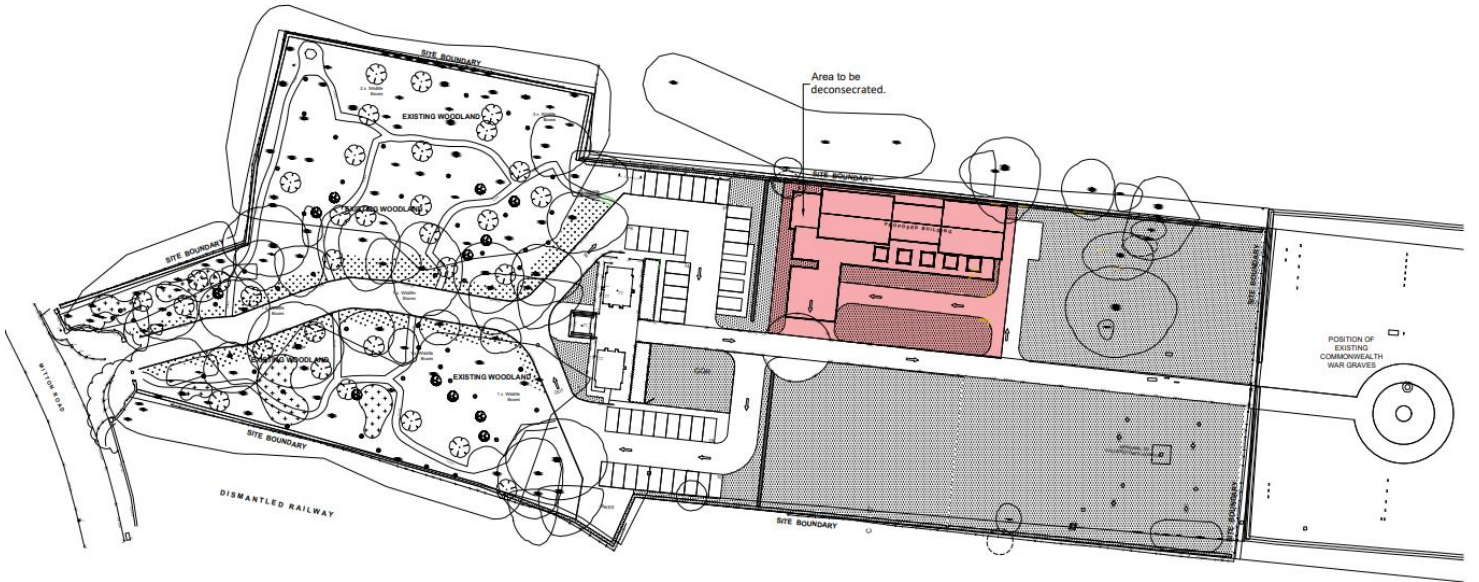
This Order is to be subject to the following conditions:

- (1) Pursuant to section 92(5) of the Measure, it will not come into effect until the Secretary of State has approved a condition that in the event that any human remains are found in the Land, they are to be reverently removed and reinterred in the part of the Burial Ground which is to remain consecrated, under the direction of the Archdeacon of Blackburn in accordance with an approved protocol.
- (2) It will not come into effect until the owners have executed a legally binding covenant giving effect to their representations and assurances that:
  - i. the Land is to be used for the erection and operation of a crematorium and for no other purpose and it is to be operated in an orderly manner mindful of the consecrated character of the neighbouring land.
  - ii. landscaping and other works of restoration will be carried out in the part of the Burial Ground which is to remain consecrated subject to obtaining such consent as may be required.
  - iii. the part of the Burial Ground which is to remain consecrated is to be open to visitors each day.
  - iv. a communal memorial is to be erected commemorating those whose headstones were wrongly removed in or about 2000.
  - v. an electronic Book of Remembrance will be provided in one of the two side chapels
  - vi. appropriate signage and interpretative information boards explaining the history of the site will be erected in accordance with plans approved by the Archdeacon

Yours

+ Philip Blackburn

**APPENDIX A**



The land shaded pink shall not be subject to the legal effects of consecration.