

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK

IN THE MATTER OF THE CHURCHYARD OF ST AGATHA'S CHURCH, WOLDINGHAM

AND IN THE MATTER OF A PETITION BY JOHN LLOYD

JUDGMENT

1. This is a petition by Mr John Lloyd to exhume the remains of his late wife, Mrs Angela Lloyd from the churchyard of St Agatha's Church, Woldingham and reinter them in another plot within the churchyard.
2. Woldingham is a village lying high on the North Downs in Surrey. It has two churches, both now in the Caterham Team Ministry: St Paul's and St Agatha's. St Paul's is the main church and is situated within the village. St Agatha's, now on the edge of the village, has the longer history and dates back to at least 1270, even though the building is modern. Seating only 40 people, it is the smallest church in Surrey. The churchyard serving the village is around St Agatha's. It was extended in the 1920s and again in 1980 when a large field was added to it. This field is now known as the New Churchyard. It is formed of clay.
3. It is the eastern part of the New Churchyard which is currently being used for burials. There is a row of 19 graves, numbered from 212 to 230, which are set against the eastern boundary. They have all now been used for burials, although those to the south (with the higher numbers) tend to become wet in periods of heavy rain. This was particularly noticeable in the winter of 2013-2014. In February 2014, it was necessary to use Plot 231 (at the start of the next row) rather than the most southerly, Plot 230, because the latter plot was too wet to be dug. However, by the autumn of 2014, Plot 230 was dry enough to be used, and in spring 2015 a second burial was made in Plot 227 without difficulty.
4. Mrs Lloyd was a committed and loyal member of the church in Woldingham, involved in many aspects of its life and with many friends in the congregation. She died on 27 January 2013 and, following a funeral service in St Paul's Church, on 12 February 2013 was buried in the New Churchyard. This was in Plot 228.
5. Mr Lloyd now petitions to exhume the remains of his wife, and for those remains to be re-interred elsewhere in the New Churchyard.
6. In his petition, he states his reasons as follows:

The ground around the grave becomes extremely wet during the winter months; so much so, that water lies on the surface for many weeks, making regular visits to the grave very upsetting as the water does not drain away and any planting is ruined. Due to this groundwater problem and the clay soil, extensive drainage works would have to be undertaken to reduce this problem, which may prove to be ineffective. As this will be a double grave, my family and I wish the grave to be moved to a more suitable position within the churchyard.
7. The petition is supported by all of Mr Lloyd's children. It also supported by a unanimous resolution of the PCC, passed at a meeting on 22 July 2015.

8. The situation that arises is evidently an unfortunate one. It would be much better if the drainage problem could be solved. The Petitioner of course is not confident that a solution can be found.
9. I asked the Team Vicar, the Revd Dr Catherine Dowland-Pillinger about this. The position is that there are only a small number of plots affected, at times when the weather is particularly wet. None of the relatives of those interred in these other plots have raised any concerns with Dr Dowland-Pillinger or the PCC. Against this background, the PCC has no plans to carry out any remedial works.
10. As is well known, Christian burial is intended to be permanent and there is a presumption against exhumation; exhumation is permitted only exceptionally (see *In re Blagdon Cemetery*¹). Accordingly in the present case the question arises as to whether the facts demonstrate exceptional circumstances.
11. I am satisfied that they do. Mr Lloyd is not of course in any way challenging the principle of the permanence of Christian burial and is, I am sure, only reluctantly bringing this petition. Although the problem was evidently at its worst in the winter of 2013 – 2014, Mr Lloyd has waited until now to bring the petition, enabling him to assess the position over a longer period. I am satisfied that he and his family do find the current position unacceptable and I do not think that their feelings about it are unreasonable. The fact that another family might not be so concerned, either because their visits were not so frequent or because they did not want to plant the grave, does not in these circumstances seem to me to be relevant.
12. No Chancellor makes any decision in this field without being aware that what he decides may subsequently be referred to as a precedent, despite the fact that every case is unique and decided on its own facts². The facts of the present case have some similarity to those of *In re St Nicholas, Codsall* although the facts of that case were more extreme than those before me³. More generally, there is an understandable reluctance in Chancellors to grant petitions for exhumation based on suggestions that the condition of the churchyard or cemetery has deteriorated⁴.
13. It seems to me that in an extreme case, the deterioration of a churchyard or cemetery might well form the basis for a successful petition for exhumation⁵. However, distinguishing the present case from other potential cases, I think that the timing of the petition is a pertinent factor. In the circumstances, it has been made promptly (I have explained how Mr Lloyd sensibly deferred bringing an immediate petition in order to enable him to make a proper assessment of the situation). Evidently it is better for a petition to rectify a situation where something has gone wrong to be made sooner rather than later. It seems to me that a situation where the condition of a

¹ [2002] Fam 299 (Court of Arches).

² It was a specific finding in *In re Blagdon Cemetery* that precedent may be relevant factor in these cases: see paragraph 36 (v).

³ It seems that because of the shallowness of the grave and the nature of the ground, it was difficult to prevent the coffin in which a recent burial had taken place from becoming visible.

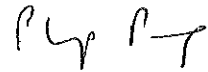
⁴ See eg *In re Beverley Anne Roberts* (Manchester Consistory Court) (29 November 2012).

⁵ One such recent case where the condition of a Garden of Remembrance formed part of the reason for permitting exhumation was *In re St Margaret, Thornbury* (Bradford Consistory Court) (11 November 2011).

churchyard or cemetery has deteriorated over a long period presents a different justification for exhumation and one where the length of time that has elapsed since burial may count against exhumation; even though it might not be determinative of a petition for exhumation.

14. It is also pertinent to note that the petition concerns a double grave. If a faculty were not to issue in the present case, the fact that the arrangements in respect of a future burial in due time would be unsatisfactory would no doubt be a cause of additional and continuing concern to Mr Lloyd and his family.

15. In the light of the foregoing, I direct that a faculty shall issue in the present case.



PHILIP PETCHEY
Chancellor
24 November 2015

