

IN THE CONSISTORY COURT AT LINCOLN

In the matter of the churchyard of St Radegunda, Grayingham.

Judgment

1. This is a Petition for a Faculty dated 18 April 2023 by Mr James Flear who seeks the exhumation of the ashes of his late wife Mrs Brenda Flear. She died on 21 May 2008 and her ashes were interred against the south wall of the nave on 16 June 2008. The reason for the Petition is that the church has permission to build a small extension against the south nave wall which will disturb the area where the ashes are interred. Mr Flear wishes that his wife's ashes should be exhumed and reinterred in another identified location in the churchyard which has been left vacant for this to be achieved.
2. The PCC and churchwardens all support this application. The undertakers have also indicated that they can exhume and reinter the ashes. There is no incumbent but the Rural Dean Revd David Rowett also supports this Petition.
3. Mrs Flear had 4 children by an earlier marriage. They are Teresa Jill Thickett, Jayne Mandy Coote, Robert Arthur Coote and Antony John Turney. They have been consulted as part of this process, and have agreed to the exhumation on the basis that half the ashes recovered should be interred in the location requested by Mr Flear, but the other half should be scattered off Cleethorpes Pier. In the email dated 27 June 2023 from Jill Thickett she explains that this is because their mother would have loved to travel the world but was unable to because of her health conditions in later years but she did enjoy a

cruise. For this reason, her children consider that it is fitting to put half the ashes in the sea.

4. Following receipt of the wishes of Mrs Flear's children I asked for a pastoral conversation to be undertaken with Mr Flear which was undertaken. He has explained that it was his late wife's wish in 2008 that her ashes should not be scattered but interred in one place. For this reason, they have been interred in the place they have since 2008.
5. In considering this Petition it is important that the family all understand as I am sure they do, the law that I must apply. It is founded upon a Christian understanding of what burial of the body, or the cremated remains, signify. The principles by which an exhumation from consecrated ground is permitted are well known and set out in the case of In Re Blagdon Cemetery 2002 Fam p299.
6. The presumption is that burial of human remains in consecrated ground is permanent. This presumption arises from the Christian theology of burial which was set out at para 23 of the judgement in Blagdon in the quotation from The Bishop of Stafford's paper on the 'Theology of Burial'. He wrote

"The funeral itself articulates very clearly that its purpose is to remember before God the departed; to give thanks for their life; to commend them to God the merciful redeemer and judge; to commit their body to burial/cremation and finally to comfort one another."

He went on to explain:

"The permanent burial of the physical body/the burial of the cremated remains should be seen as a symbol of our entrusting

the person to God for resurrection. We are commending the person to God, saying farewell to them (for their 'journey'), entrusting them in peace for their ultimate destination, with us, to the heavenly Jerusalem. The commending, entrusting, resting in peace does not sit easily with 'portable remains' which suggests the opposite: reclaiming, possession, and restlessness; a holding onto the 'symbol' of human life rather than a giving back to God".

7. In this case there has been a commendation of the ashes of Mrs Flear to the consecrated ground and the presumption is that those interred ashes would remain permanently there.
8. There are exceptions to this presumption which the Court of Arches in Re Blagdon identified. These can include serious medical reasons on the part of the family which make exhumation and reinterment justifiable or if there has been a mistake in the location of the grave into which the remains are laid, or if there is an application based upon the desire to have a family grave in a different location.
9. The application in this case is made on the basis that unless this it is granted the cremated remains of Mrs Flears will be covered by the new extension that is proposed and future access for Mr Flear's cremated remains when the time came would not be possible. There is also a pastoral consideration in having the extension built over Mrs Flear's interment. Mr Flear remains a long-standing member of the worshipping congregation.
10. I am satisfied that exhumation and reinterment of Mrs Flear's cremated remains for such a purpose within the churchyard comes

within an exception that can be made to the principle of permanence. Mr Flear is a member of the congregation and I recognise the distress that would be caused by a church extension being built out over the place where his late wife's ashes were interred making their joint interment impossible. It is his wish that his ashes should be interred with that of his late wife and therefore by applying for this Faculty he wants the new location to be a family grave to include both the ashes of his late wife and his own ashes when the time comes. Such an application comes within the exceptions envisaged by the Court of Arches in Re Blagdon. It would be impossible for his own ashes to be interred with his late wife's remains if the ashes are not exhumed and moved. I am satisfied that there are good legal and pastoral reasons for permitting exceptionally the exhumation and reinterment of the ashes of his late wife into the plot that has been identified.

11. I have considered with care the wish of Mrs Flear's children that their mother's ashes should now be divided and partly scattered from Cleethorpes Pier. I am unable to agree to this course for the following reasons:
 - (i) I accept the evidence that Mrs Flear did not want her ashes to be scattered. A decision was made to inter all her ashes in one place in 2008. There is no good reason to change this decision which accords with her wishes.
 - (ii) There would have been a service of committal of her ashes to the ground in 2008 using the words of the liturgy which provide for this. It is not appropriate now to take some of the ashes and scatter them in the sea in a partial 're-committal'.

12. In these circumstances I grant the Petitioner's Faculty on condition that the all the ashes are reinterred together in the new location and that the reinterment takes place as soon as possible after the exhumation and not more than 24 hours later. The exhumation should be done discreetly so that visitors to the churchyard are caused no distress. I understand that the existing memorial stone will be moved to the new location.

13. I apologise for the delay in providing this judgement. I waive my fee.

The Worshipful Chancellor The Revd HH Judge Mark Bishop

21st October 2023