

Neutral Citation No: 2021 ECC Lon 3

IN THE CONSISTORY COURT

Diocese of London

IN THE MATTER OF THE CHURCHYARD OF ST MARY NORTHOLT

-and-

IN THE MATTER OF FACULTY NO 4125

The proposed exhumation of the mortal remains of the late JDL (née M) from Plot No 69 in consecrated ground at St Mary's Churchyard for the purpose of the scattering of those cremated remains in the Gardens of Remembrance at Breakspear Crematorium

-and-

IN THE MATTER OF

A Petition of PM (father)

JUDGMENT OF THE CHANCELLOR

November 8, 2021

1. This is a petition from PM who wishes to exhume the mortal and cremated remains of his daughter, the late JDL, née M, from consecrated ground at St Mary's Churchyard, Northolt for the purpose of scattering her ashes in the Gardens of Remembrance at Breakspear Crematorium.
2. I decided that this was a case which could and should be decided on the papers, but I gave the Petitioner the opportunity to make representations against this course should he wish and also to make any further representations in support of the petition if he wished to do that. He informed the Registry that he was content to proceed on the papers now before me which is what I shall now do.

3. PM's daughter died at the very untimely age of 45 years, both of widespread cancers and a renal cancer, which may have been the precipitating condition. I have only to state those brief facts for anyone to understand the tragic circumstances of this lady's death on February 12, 2007. I understand the date of interment to have been May 8, 2007.
4. Although the Churchwardens and PCC consent to an exhumation, Breakspear Crematorium consents to the scattering of JDL's ashes and her mother and close family have also given their consent, I have to consider the circumstances of any proposed exhumation from consecrated ground in a churchyard with the greatest of care in accordance with ecclesiastical law.
5. I must first examine the reason given for wanting to disturb this lady's remains. Her father gives as his reason that, in his opinion and that of his family, Ealing Council has neglected his daughter's grave considerably. He adds that his late daughter's wish at the time was to be buried close to where her children lived and that at the time of her burial her close family lived in the Northolt and Greenford areas. Both PM and his wife, who are sadly in poor health, wish their ashes to be scattered in the same way in the same crematorium when the time comes.
6. The family letters of support come from the deceased's mother, SDM, a sister, CCL, another sister, TJM, a third sister, DAM and the deceased's daughter, LL. It was suggested in the petition that the deceased had more than one child and there is no reference to her husband in the petition. I do not know whether or not the marriage was still subsisting at the time of her death or whether indeed her husband is still alive, but I do not need to pursue these questions for reasons that will become clear.
7. The law which governs exhumation is still that enunciated in the 2001 case of *In Re Blagdon Cemetery* (Cameron QC, Dean of Arches, Clark QC Ch and George QC Ch). The Petitioner was supplied with a copy of the Judgment by the Registry.
8. It emphasises the following matters. Where burial or interment is in consecrated ground, permanence of that burial is the norm and will only be departed from where there are exceptional circumstances to justify it. There were a wide range of options for burial in 2007 and in this case burial in consecrated ground was

chosen. The burden of proof is on the Petitioner to give reasons justifying an exception to the normal rule.

9. *Blagdon* lays down various possible categories of circumstances that might justify such an exception being made. I do not need to rehearse these as none of them include the reason given in this petition.
10. The fact that circumstances change during the period in which any person is buried – such as movement of family and friends – does not justify exhumation. That is a fact of life many of us face and the court in *Blagdon* expressly disapproved of remains being seen as ‘portable’.
11. In this case, in fact, the proposal is to remove the cremated remains from their location in consecrated ground and to scatter the ashes in a different location. By definition, the scattered ashes will not lie permanently in consecrated ground. I have seen no indication that this represents the wishes of the deceased who expressly sought to be buried.
12. The principal reason given is that it is thought that the local council has neglected JDL’s grave. I am not sure what this means. Tending of the memorial itself is a matter generally for the family of a deceased person. If the complaint is that the churchyard itself is not being maintained properly then that is a matter to be raised with the local council. Memorials do weather with age and that is again another feature that we all have to face when visiting the graves of loved ones.
13. It is not unusual for people to re-think the burial arrangements of those who were very close to them when they themselves become older, particularly if they are frail and unwell. I entirely understand and sympathise with those feelings. There is, however, nothing in this petition that I could justify as even approaching an exceptional or special circumstance to justify disturbing this lady’s resting place in consecrated ground where her remains have lain for nearly 15 years.
14. I am afraid, therefore, that I have to refuse this petition.