

Neutral Citation Number: [2023] ECC Swk 4

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK

IN THE MATTER OF WEST NORWOOD CEMETERY

AND IN THE MATTER OF A PETITION BY MS BRIDGET WARD

Introduction

1. This is the petition of Bridget Ward, the daughter of John Ward, for the exhumation of the remains of Lisa Ward from a plot in the children's section of West Norwood Cemetery. All the plots in this section are consecrated.

The facts

2. In 1995, Mr Ward and his wife Bridget lived in Norwood. In April 1995 they had a baby daughter, whom they named Lisa but who was tragically stillborn.
3. On 25 April 1995, Lisa's remains were buried in a plot in the children's section of West Norwood Cemetery. Mr and Mrs Ward were not told that the plot was consecrated and did not appreciate that it was consecrated.
4. Mr and Mrs Ward are Roman Catholics. Before Lisa's remains were interred the plot was blessed by a Roman Catholic priest who also conducted a service according to the rites of that Church.
5. In 2022/3 Mrs Ward was terminally ill with cancer. She investigated the possibility of being buried with Lisa in West Norwood Cemetery. There were no plots there available for the burial of an adult and, even if there had been, it would not of course have been possible for Mrs Ward's remains to be buried in the same section of the cemetery (because Lisa's remains were in a section for the burial of the remains of children). By this time, Mr and Mrs Ward had moved to Croydon. In the light of the position at West Norwood Cemetery, they bought a double depth plot in Mitcham Road Cemetery, Croydon. They also reserved the adjoining plot for the reburial of the remains of Lisa (if permission be given for their exhumation from West Norwood Cemetery). These two plots are unconsecrated. Mrs Ward hoped that the exhumation of Lisa's remains would prove possible and in presenting this petition, her daughter and now widower hope that her wish will be fulfilled.
6. Mrs Ward sadly died on 16 March 2023 and her remains were buried in the plot that had been bought in Mitcham Road Cemetery.
7. Ms Ward now petitions for a faculty permitting the remains of Lisa to be exhumed from West Norwood Cemetery. Her father strongly supports the petition. There are no other close relatives to be considered.

Consideration

8. The norm of Christian burial is permanence. As regards land which is consecrated according to the rites of the Church of England, this means that permission for exhumation of human remains once buried is granted only exceptionally¹. In general terms my understanding is that the Roman Catholic Church takes the same general approach but operates a different system of control in respect of land in its ownership. However this may be, Lisa's remains were buried in land which, as a consequence of its consecration, was regulated by the law relating to the Church of England.
9. It is obviously very significant that Mr and Mrs Ward did not appreciate that the plot in West Norwood Cemetery was consecrated. It is possible that had they done so, they would still have gone ahead with the burial of Lisa's remains there but, as it was, they did not consider the matter in this light and, in particular, the long term implications of doing so.
10. In the light of Mr and Mrs Ward's ignorance of the fact that the plot was consecrated it would be hard to justify refusing exhumation on the basis of permanence of Christian burial, albeit tempered by the fact that, as a generality, Mr and Mrs Ward would have sympathised with the principle involved. Moreover there is a further justification for what they propose, namely the creation of what will be, in effect, a family grave. As *Blagdon* recognised², family graves are intrinsically a good thing, as expressive of family unity³. It seems to me that the two relevant factors – namely, ignorance of the fact of consecration and the creation of a family grave – constitute exceptional circumstances justifying an exception to the norm of permanence. I note that the re-interment will be in an unconsecrated plot. However one cannot imagine circumstances in which this would not be the final resting place for the remains of Lisa Ward; and the plot will, I am told, be blessed by a Roman Catholic priest before the interment takes place⁴.
11. Since Lisa was stillborn, I do not know if a licence from the Ministry of Justice is required for the exhumation of her remains. Ms Ward (or those acting for her in this matter) should check.

Determination

12. I direct that a faculty should issue.

PHILIP PETCHEY

Chancellor

22 June 2023

¹ See *In re Blagdon Cemetery* [2002] Fam 291 (Court of Arches).

² See paragraph 36 (vi) of the judgment.

³ They may sometimes also achieve a saving in the use of grave space. I do not think that this factor applies in the present case.

⁴ There was not an objection in *Blagdon* arising from the fact that the re-interment of the exhumed remains was to unconsecrated ground.