

Re St Peter, Gunton

Judgment

1. Mrs Queenie Ivy Gooch has petitioned for the exhumation of the cremated remains of her mother, Mrs Queenie Kate Beckett, from the churchyard of St Peter, Gunton for their reinterment in the nearby Kirkley Cemetery. The incumbent and churchwarden have indicated that they have no objection to the exhumation, although express some understandable concern about the setting of a precedent should the faculty be granted. Mrs Gooch has provided an eloquent statement in support of her petition which sets out the reasons for her request. That statement is supported by letters from her daughter and two grandsons which reflect the same position.

Background

2. Mrs Beckett died in 1996 and her cremated remains were interred in the churchyard of St Peter, Gunton in 1997. I am told that the remains were buried in the churchyard at Gunton as Mrs Beckett's family believed that the remains had to be buried in her parish. They did not know that a churchyard or cemetery of their choice could be used. It was always thought that the cremated remains of Mrs Gooch and her husband would join those of Mrs Beckett when their time came.
3. Mrs Beckett's remains are buried in a plot which is set some way back from the main path. The access is by way of a narrow and uneven footpath, across a grave and around a tree. I am grateful for the extremely helpful set of photographs with descriptions with which I have been provided which shows the location of the grave and the access route. Mrs Gooch is 81 years old and regularly uses a wheelchair. The width of the path means that the grave is inaccessible by wheelchair and the uneven terrain and her impaired mobility makes it impossible for Mrs Gooch to access the grave by foot. It is clear that the inability to access her mother's grave causes Mrs Gooch real distress and it is for this reason that she wishes to exhume her mother's remains and reinter them in Kirkley Cemetery. The set of photographs provided shows clearly that access to graves at Kirkley Cemetery will be far easier. As is perhaps typical of a municipal cemetery (as opposed to a rural churchyard), there are wide roads and flat lawns which make access straightforward. As a disabled badge

holder, Mrs Gooch would be entitled to be driven into the cemetery to a point very close to the proposed grave plot.

4. Mrs Gooch's husband passed away in January of this year. His remains will be interred in Kirkley Cemetery where the remains of many of his family members are buried. A plot has been reserved for Mr Gooch with provision for Mrs Gooch's remains to join his in the fullness of time. The hope is to reinter Mrs Beckett in a plot adjoining this one. At least ten members of Mr Gooch's family are buried in Kirkley Cemetery along with a number of other members of Mrs Gooch's more distant family. Mrs Gooch's daughter and her husband have also reserved a plot in Kirkley Cemetery next to the plot reserved for Mr and Mrs Gooch.

The law

5. The Court of Arches reviewed the law on exhumation in its decision in *Re Blagdon Cemetery* [2002] Fam 299. In that case the Court restated the long-established presumption against exhumation and in favour of the permanence of Christian burial in consecrated ground. This presumption arises from the Christian theology of burial upon which the Court in *Blagdon* received evidence from the then Bishop of Stafford. The key parts of the Bishop of Stafford's evidence are set out below:

“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, 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.”

6. Given the presumption against exhumation, the Court in *Blagdon* went on to state that it is for the petitioner to satisfy the Consistory Court that there are special circumstances in her case which justify the making of an exception from the norm that Christian burial is final.

The Court in *Blagdon* considered various factors which, whilst not exhaustive, might give rise to a finding that special circumstances exist which may permit the exhumation of the deceased's remains. I must now decide whether Mrs Gooch has satisfied me that special circumstances exist in this case. There are five circumstances evident from the papers before me (all of which are addressed in the *Blagdon* case) which are relevant to that decision, namely: Medical reasons; lapse of time; mistake; precedent; and the creation of a family grave. I will address each of these considerations in turn.

7. Medical reasons. In this case the only medical issue which arises is the question of Mrs Gooch's mobility difficulties at the age of 81. In *Blagdon* the Court of Arches stated that any medical reasons would have to be very powerful indeed to create an exception to the norm of permanence. It expressly stated that the advancing years and deteriorating health of petitioners would not amount to a special reason to depart from the norm of permanence.
8. Lapse of time. In this case Mrs Beckett's remains have been interred in the churchyard at Gunton for some eighteen years. Although the passage of such a substantial period is not, of course, determinative of whether a faculty should be granted, it is a relevant consideration. In this case, the passage of such a substantial period leads me to conclude that the principal reason for this application is the difficulty in accessing the grave caused by the increasing mobility difficulties which Mrs Gooch is experiencing as she gets older. Indeed, Mrs Gooch says as much when she says explains in paragraph 1 of her statement about the inaccessibility of the current grave, the relative ease of access of the Kirkley plot and then goes on to say "This is the reason for my request to have my Mother's remains moved."
9. Mistake. In *Blagdon* the Court of Arches indicated that, where there has been a simple error in administration, such as burial in the wrong grave, faculties for exhumations could readily be granted. Of more difficulty is where there is a failure to understand or appreciate the significance of burial in consecrated ground. There has been no administrative error in this case but Mrs Gooch states that at the time of the interment Mrs Beckett's family believed that her remains had to be buried in her parish and were not aware of the possibility of burial elsewhere. The basis of that belief is not clear. That said, it cannot be said that Mrs Beckett's family failed to understand the significance of burial in consecrated ground. A decision was made to bury Mrs Beckett in the community where she lived and her grave appears to have been visited and cared for for the last eighteen years. I appreciate that Mrs Beckett's family have come to regret that decision having appreciated with hindsight that the location of the plot has become more inaccessible as Mrs Gooch become less mobile, but that cannot be said to be a mistake. It is rather simply an unfortunate change of

circumstances of the type which many bereaved families must experience after the death of a loved one.

- 10.Precedent. Whereas each case must be considered on its own merits, the desirability of securing equality of treatment as between petitioners, so far as circumstances permit it, means that the creation of precedent must be relevant to my considerations. I recently refused two petitions for the exhumation of cremated remains from this churchyard for their reinterment nearby within the same churchyard (see *Re St Peter, Gunton* 26 October 2013). In those cases the special circumstances relied upon related, in part, to difficulties of access to the graves in light of the advancing years and limited mobility of the petitioners. I am mindful both of the precedent set in that case and the potential precedent set for future petitions by a grant of faculty in this case. The petitioners in that previous case would feel an understandable sense of hurt and grievance if a faculty were granted in this case without a clear distinction between those cases and this.
- 11.Creation of a family grave. The Court of Arches has held that the creation of family graves is to be encouraged. They are both expressive of family unity and environmentally friendly in demonstrating an economical use of the land for burials. Whereas in this case there would be no economy of land use as the intention is for Mrs Beckett to have her own grave adjoining that of Mr and Mrs Gooch, there is, of course, an expression of family unity in interring Mrs Beckett's remains alongside of those of family members. I pause to note that the family members already interred in Kirkley Cemetery are related to Mrs Beckett only by marriage, although it is intended that she should be joined by her daughter and granddaughter in the fullness of time. That said, the Court of Arches in *Blagdon* anticipated that the grant of a faculty for exhumation to establish a family grave would need "special reasons [to be] put forward for the lapse of time since the date of burial". In this case it seems clear to me that the primary reason for the petition being made at this time does not relate to the inability to create a family grave at an earlier stage (as in the *Blagdon* case), but rather to the fact that Mrs Beckett's grave has with the passage of time become difficult for Mrs Gooch to access. This is reflected in Mrs Gooch's statement that "I feel that...this is an exceptional circumstance, particularly as Gunton St Peters Churchyard is inaccessible for me".

Conclusion

- 12.It will be apparent from the above that I cannot find that special reasons exist in this case which would justify an exception to the norm of permanence of Christian burial. I know that this will cause real upset to Mrs Gooch and have great sympathy for her but I am unable to find a proper justification for this exhumation. If the advancing of years and its consequent limitations of mobility were to be sufficient

reason for an exhumation then this could lead to a flood of similar applications and unacceptable inroads into the principle of permanence. I hope that Mrs Gooch will find some comfort in the confidence that her mother has been trusted into the safety of God's hands in the hope of future resurrection

Ruth Arlow
Chancellor of the Diocese of Norwich

3 July 2015