

In the Matter of a Petition by Mrs Michele Empsall for a Faculty to exhume the remains of Mrs Margery Matthews and Mr Julian Francis Matthews

JUDGMENT

1. This is a Petition by Mrs Michele Empsall for a faculty authorising the exhumation of the cremated remains of her mother , Mrs Margery Matthews , who died on 17th December 1997 (and whose remains were interred on 28th February 1997) and those of her brother, Julian Francis Matthews , who died on 28th February 1976 (and whose remains were interred soon thereafter) from the Hirst Wood Burial Ground to be re-interred in the Cleckheaton New Cemetery. The reasons for the application are set out in the moving letter from the Petitioner dated 12th March 2010 , and the Petition is supported by other family members. It is however opposed by The Revd. Susan Hope , Priest in charge at St. Paul's Shipley and a trustee of the Hirst Wood Burial Board .
2. In determining this Petition, the question which I have to decide is whether there are special circumstances which justify the making of an exception from the norm that Christian burial [that is, burial of a body or cremated remains in a consecrated churchyard or the consecrated part of a local authority cemetery] is final. The Petitioner needs to satisfy me on a balance of probabilities that there are such special circumstances.
3. The leading decision of the Court of Arches of in re Blagdon Cemetery sets out factors which commonly arise in connection with petitions for faculties for exhumation and identifies those which should and those which should not properly be taken into account . These identified factors are not intended to be exhaustive , but they do provide guidance . I must exercise my discretion in the light of all the facts of the case , recognizing as I do how painful these cases are for Petitioners, but having due regard to the principle that a faculty for exhumation should only exceptionally be granted , for the reasons set out in the letter from The Revd. Susan Hope dated 23rd January 2010.
4. In this case , having carefully considered Mrs. Empsall's letter, the representations from The Revd. Hope , and having applied the relevant law, I regret that I can identify no exceptional circumstances which could enable me properly to exercise my discretion to grant this Petition. I must therefore refuse it.

5. Finally, I should like to convey my apologies to Mrs Empsall for my delay in dealing with this Petition and for any inconvenience or additional upset which this delay may have caused.

John Bamber

Chancellor of the Diocese

7 May 2010