

IN THE CONSISTORY COURT OF THE DIOCESE OF CARLISLE

Re: Cotehill with Cumwhinton, St. John's Church – Grave Space Reservation

THE PETITIONS OF:

(1) Patricia Briggs

(2) Joanne Briggs

JUDGMENT

Delivered on 1 October 2025

1. This judgment concerns two related grave space reservation petitions. It explains why I am prepared to allow them, but only for a limited period of 10 years, subject to permission to apply for an extension.
2. The first petition is that of Mrs. Patricia Briggs (who is 79), seeking reservation of a double depth plot for her and her husband, John. The second petition is of their daughter, Joanne Briggs. All three either own or occupy property in the parish. Both petitions have the support of the DCC.
3. The reason why the matter is not straightforward is because the first petition states that at the present rate of burials the churchyard will be sufficient for 10 years. The second petition, on the other hand, which came only a few months later, says it will be enough for “5+” years.
4. In response to enquiries, the churchwarden has stated that it is difficult to say how long the churchyard will be able to accommodate further burials. This is because of an out-of-date churchyard plan. That said, some land has become available for further burials due to the loss of a large tree; and there are plans to create more space through other initiatives. On that basis it is considered that the “5+” figure is “*on the conservative side*”.

5. The law that applies to applications like these, where there is a shortage of graveyard space, is as follows. By reference to his earlier decision in the matter of *Re St. Mary, Thame* [2022] ECC Oxf 2, (2023) 25 Ecc LJ 114 Chancellor Hodge, KC identified the following, non-exhaustive propositions:
- “(1) *The reservation of a grave space is entirely within the discretion of the consistory court, to be exercised having regard to the particular circumstances of the case.*
- (2) *The court will be more inclined to grant a faculty to a petitioner with the right to be buried in the churchyard than to one without such an entitlement. Those who have such a right are the persons living within the parish, and those on the electoral roll of the parish church.*
- (3) *The court may nevertheless grant a faculty to a petitioner with no right to be buried in the churchyard where they can demonstrate a personal, or a substantial family, connection to the church and/or its churchyard, or some other some good and sufficient reason to be buried there.*
- (4) *Where there is sufficient space within the churchyard, and the incumbent minister gives their consent, the court may well grant a faculty to such a petitioner, unless the Parochial Church Council have a policy of opposing the reservation of grave spaces.*
- (5) *Such a policy cannot be conclusive, and it cannot remove the court’s overarching discretion; but where the PCC have adopted a policy that is considered, reasonable and fair, the court will only be justified in departing from that policy in exceptional circumstances; and anyone seeking to reserve a grave space in the face of such a policy will need to show that their case is markedly out of the ordinary.*
- (6) *Where, however, the remaining space within the churchyard is limited, then a faculty will not normally be granted, and the petitioner will have to demonstrate sufficient justification for the court to take the exceptional course of allowing a reservation in such circumstances, because of the risk that such a reservation will prejudice the rights of those parishioners or worshippers who would otherwise be entitled to be buried in the churchyard.*

- (7) *Even where such a justification is demonstrated, it will not usually be right to extend the duration of the faculty beyond the period for which the churchyard is likely to have space for burials, unless there are exceptional circumstances (including evidence of a particularly strong connection to the church and/or the churchyard) in favour of doing so.*
- (8) *Should a faculty for a grave space reservation be granted for a limited duration, it remains open to the petitioner to apply for an extension of the period of its validity. Whether or not any extension is to be granted will depend upon the prevailing circumstances, including: (1) the petitioner's personal circumstances; (2) whether arrangements have been made to provide additional space for burials, whether by the acquisition of further land, or the re-use of parts of the churchyard, or otherwise; (3) the views of the incumbent minister; and (4) any current policy of the PCC towards the reservation of grave spaces."*
6. The test for "exceptional circumstances" in this regard is whether the case is "markedly out of the ordinary" (see the decision of Chancellor Lyndsey de Mestre, KC in *Re St Peter, Hilton* [2024] ECC Yor 1 (Diocese of York)).
7. In the present case none of the petitioners have responded to requests that they should identify any exceptional circumstances applying in this case. I do not consider that there are any, from what I have read.
8. I have taken into account that the petitions have the support of the DCC; the petitioners all have long-standing local connections; and that options are being examined for increasing the space available for burials in this churchyard.
9. In these circumstances my decision is that it is appropriate to allow reservation for a period of 10 years only, in each case.
10. My direction is that:
- (a) Each faculty is to be limited in duration to 10 years from the date of the faculty;
- (b) On grant of the faculty the space shall be promptly marked out in compliance with rules 2.3.4, 2.3.5 and 2.3.6 of the Diocesan Churchyard Regulations 2010 (as amended); and

- (c) In the final year of these 10-year periods the petitioners may, if they wish, apply for an extension of the period of reservation.
11. I charge no fee for this written judgment, but the Petitioners must pay the costs of their respective petitions, including any fees incurred by the Registry in dealing with these faculty applications.

JAMES FRYER-SPEDDING

Chancellor

1 October 2025