

In the Consistory Court of the Diocese of Norwich NR206/15

Re St Mary, Hellesdon

Judgment

1. In an undated petition received at the Registry in late 2015 Laverne Mary Engledow, Adrian Michael Engledow, Beverly Rose Clements and Robert Ian Williamson have petitioned for a faculty for the reservation for thirty years of a triple depth grave space in Hellesdon churchyard for the exclusive right of burial of their remains. It is intended that Mr Williamsons' remains will be cremated, hence the need for a triple depth grave. The petitioners are all members of the Clements family and the space to be reserved is next to the grave of their parents who died within a few months of each other. The petition is supported by the incumbent, the churchwardens and the PCC.
2. I sought and obtained confirmation that the ground conditions at Hellesdon would permit of a triple depth grave and that there was space in the churchyard for approximately twenty years of burials. In light of that information and in accordance with practice in this Diocese, I gave the petitioners an opportunity to make representations as to why the reservation sought should last for more than the twenty years for which space remains, noting that the granting of a reservation for a longer period would be an exceptional order given that it would interfere with the long established rights of parishioners to be buried in the consecrated graveyard of the parish whilst space remains
3. The petitioners have made written representations seeking to satisfy me that exceptional circumstances exist which would justify the granting of a faculty for the full thirty years. In support of their position they state that they are a very close family who were all born and raised in Hellesdon. They are members of the congregation at St Mary's church, worshipping there as often as is possible. They argue that a twenty-year reservation would not be long enough as the eldest petitioner is only 56. I note that paragraph two of the petition indicates that the eldest petitioner is in fact 63 years of age. I do know which of these ages is correct, but am satisfied that the discrepancy will not materially affect my determination in this case. The incumbent, the Reverend Louise Alder, has also written in support of the petitioners' application, stating that the plot in question has already been set aside for genuine pastoral reasons.

4. I must ask myself whether the representations made amount to a good reason sufficient to interfere with the rights of parishioners to burial in their churchyard. All of the petitioners either live in the parish or have substantial genuine links with the parish. As stated, their petition is supported by the incumbent, the churchwardens and the PCC and I am satisfied that a reservation should be granted in this case. If there were adequate space remaining in the churchyard I would not hesitate to grant a reservation for the full thirty years. The only factor which militates against that is the fact that there is at present space for only approximately twenty years.
5. I dealt with a similar application in the case of *Re St Margaret, Drayton* (5 March 2015). In that case I stated:

“The granting of a reservation impinges upon the legal rights of others. Firstly, it limits the incumbent’s authority, both in determining the position of burials within the churchyard and in permitting the burial of those not otherwise entitled to be interred. Secondly, and in my view more importantly, it prejudices the rights of others with a right to burial in the churchyard who predecease the petitioners.

As the established church in England, the Church of England benefits from privileges and also bears responsibilities. For example, it has the duty to marry and to bury all parishioners who seek it, regardless of their faith or lack of it. As Chancellor Hill put it in the *Pevensey* case:

“In relation to burial, it matters not whether the deceased is Christian, has attended worship or has donated money to the church during his lifetime. All are treated alike ... When space in a churchyard is limited individuals with a legal right of burial must be interred in the order in which they die until such time as the churchyard is full. Neither the provision of alms in the past nor regular attendance and support of the Church’s ministry can give rise to a presumptive priority for a certain class of individuals ...”

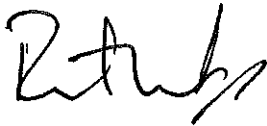
This reflects the fact that an incumbent has the cure of *all* souls within that parish and also the Christian principle of equality before God, for “God shows no partiality”. In my view, where there is a real risk that a faculty for the reservation of a gravespace would prejudice the rights of others with a legal right of burial that faculty should only be granted in exceptional circumstances.”

6. I have considered whether the factors outlined by the petitioners and the Reverend Alder in support of the thirty-year reservation amount to exceptional circumstances. Unfortunately, I cannot find that the position of the petitioners is in any significant way different from that of many people who may wish to be (and have a right to be) interred in

¹ Romans 2v11

Hellesdon churchyard. As such, any reservation will be limited to twenty years.

7. I know that this decision may be disappointing to the petitioners but I hope that they will be comforted by the fact that there is still a good likelihood that they will all ultimately be interred in their chosen plot in Hellesdon churchyard. I direct that a faculty shall pass the seal for the reservation of that plot for the exclusive right of burial of their remains for a period of twenty years. They should also remember that it is, of course, open to them to apply for an extension of that period at a later date should the need arise. By that stage the parish may well have acquired additional burial spaces either through the acquisition of additional land or through the reuse of part of the churchyard. I cannot prejudge the outcome of any such application by the petitioners, but if changes in the burial provision in the parish at that stage means that there remains adequate space available, it is possible that any needed extension could be granted.



Ruth Arlow
Chancellor of the Diocese of Norwich

1 April 2016