

IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD

ST MARK'S, OCKER HILL, TIPTON

ON THE PETITION OF REUBEN GARRATT

JUDGMENT

- 1) On 13th May 2022 Mr Reuben Garratt applied for a faculty to authorise the reservation of a grave space for himself and Lorraine Garratt at St Mark's Church graveyard at Ocker Hill, Tipton. The application is unopposed and has the support of the parish priest and the Parochial Church Council ("PCC"). I do grant the faculty, but I will limit the period to 20 years, rather than the usual 50 years. I give this brief judgment to explain why, to offer some comfort to the petitioner and to address the PCC.
- 2) The grave space is to be reserved for two people who are each now 56 years old. They may each reasonably expect to outlive the term of this faculty. The problem with granting a longer duration, however, is that the graveyard currently has 150 spaces and 7 funerals a year. So the graveyard could be full and closed before a longer reservation needs to be exercised. After an extensive review of recent case law, Chancellor David Hodge QC in St Mary, Thame, Petition of Ms Mandy Louise MacIntosh [2022] ECC Oxf 2 considered the following principle arises: "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 ..." I endorse that view. I note Mr Garratt's "wishes to reserve a space by his family who help maintain the churchyard", but this is not sufficiently exceptional to depart from the general approach.
- 3) Even so, and adopting the approach of Chancellor Hodge QC, there will be permission in the faculty for the petitioner to apply, on paper, within six months before its expiry, for an extension of that period of 20 years, supported by evidence of

the prevailing circumstances, and of the views of the priest and the PCC at that time. Without in any way seeking to pre-judge the outcome of any such application, whether or not any extension is granted is likely to depend upon: (1) the personal circumstances of the petitioner at that time; (2) whether, by that time, 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 priest at that time; and (4) the current policy of the PCC towards the reservation of grave spaces. Whilst one may hope and expect that the grave will still be unused at that time, if a burial has taken place, that would also appear to indicate an extension for the second burial.

- 4) Finally, I would urge the PCC to adopt a policy on grave reservations. Whilst this will not bind the Chancellor or Deputy Chancellor, it would be given due respect and will be influential on future decisions.

Dr Anthony Verduyn

DEPUTY CHANCELLOR

28th June 2022