

**Neutral Citation Number: [2021] ECC Yor 5**

**In the matter of St Augustine, Kirkby-in-Cleveland**

**And in the matter or an application for a reserved grave space**

**And in the matter of a petition by Raynor Noble and David Leslie Noble.**

1. I have before me a petition from Mrs Raynor Noble and Mr David Leslie Noble seeking a faculty to reserve the exclusive right of burial in a plot in the churchyard of St Augustine, Kirkby-in-Cleveland.
2. The Petitioners have lived for some time in North Yorkshire but are not resident in the parish and the petition states that they are not on the electoral roll.
3. The reason given for seeking this faculty is in Mrs Noble's own words:

"I feel a deep affiliation along with my husband with Kirkby and Great Broughton parish. After our granddaughter attended all of the church and educational establishments within the parish starting 12 years ago with the toddler group in the church hall then onto nursery located at the primary school and finally at Kirkby and Great Broughton primary school proper.  
During this time we attended all the functions associated with the school and church (St Augustine's). This brought us into contact with many people within the parish and having friends already living there we came to feel part of the parish and community ...."
4. I am told that the PCC does not support the application. When the matter was before the PCC two members voted in favour of the proposal but seven were against it. I understand that the reasoning of the majority of the PCC was that to allow this position would reduce the number of plots available for residents of the parish.
5. The vicar, the Rev Dr Margaret Heading, states in a letter which she sent to the PCC, prior to their voting on the matter, that "Mr and Mrs Noble have never lived in the parish, have no relatives here nor any in our churchyard. They are not on the electoral roll, nor have they attended regular worship here." She also says that link with the village is through the school (*as set out by Mrs Noble above*) and that she understands the desire is for a headstone in the churchyard where her family can remember her.
6. Dr Heading also tells me that she did have a face-to-face conversation with a couple when they sought to persuade the PCC through her to support their application. She tells me that in the course of that conversation they said that they did not want a service in the church when Mrs Noble died, they just wanted the plot so that they could have a headstone.

7. The reservation of grave spaces is always a difficult matter. The matter is entirely within the discretion of the consistory court. The principles that are generally applied include the court being more inclined to grant a faculty in respect of a person with the right to be buried in the churchyard than in respect of 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. The Court also has to be satisfied that the parishioners' rights will not be prejudiced.
8. It is very rare, in my experience, to allow a reservation of a plot, by someone who does not have a right of burial. I have sometimes granted such a faculty to those who have a real connection to the church through having been members of it and who regularly attended at sometime in the past. Very occasionally I have allowed a faculty where there is a substantial family connection to the church and churchyard.
9. In this case there is no such connection, and I am particularly struck by the fact there was no desire for a Christian burial service. The church historically has provided burial space so that human remains are laid to rest in anticipation of the final resurrection of the dead. The church takes very seriously its responsibility to care for those remains until that time, which is the reasoning behind not allowing exhumations unless there are exceptional circumstances. The context of Christian burial is one of hope for the future rather than simply providing a memorial to those who have died.
10. I have been told today that Mrs Noble has now died and I am conscious that Mr Noble will no doubt be much affected by grief at this time and will have the responsibility for making arrangements for her funeral.
11. I have no doubt that he and other members of the family will view any refusal of this petition as being particularly harsh at this particular time.
12. However, I am satisfied that I must apply the principles that are generally used in deciding petitions of this sort.
13. There is no basis for me making an exception to the general principles that I apply to all decisions about these matters in this particular case.
14. As the applicants have no real connection to this church, and have no right to be buried in the churchyard, and have no wish for a Christian funeral, I am not satisfied that any case is made out for the reservation of a burial plot in this case.
15. In those circumstances this petition is refused.

HH Peter Collier QC  
Diocesan Chancellor

10<sup>th</sup> November 2021