

In the Consistory Court of the Diocese of Durham
Re the Churchyard of Fatfield St George
And Re the Petition of Leon and Linda Le Dune

Judgment

1. By a petition dated 24 August 2021 Dr Leon and Mrs Linda Le Dune seek a faculty for the reservation of a double grave space in the churchyard of St George, Fatfield.
2. In answer to the standard questions set out in the petition, the petitioners have disclosed that they are not parishioners, do not regularly worship at the church and do not provide towards the church's funds. They have also indicated that they have no relatives whose remains are already interred in the churchyard, although their son and daughter-in-law, who are parishioners, have a reserved grave space next to the plot which the petitioners seek to reserve.
3. The petition has the support of the PCC, which on 7 September 2021 unanimously voted in favour. There are 18 members of the PCC. The petition states that on 4 June 2019 the PCC had previously unanimously passed a resolution to support the reservation of grave spaces by faculty, declaring "We agree that this option is open to all within the parish". As noted above, however, the petitioners are not parishioners.
4. Public notice of the petition was duly given, and it is unopposed.
5. A covering letter accompanied the petition. It was written by the petitioners' son. He writes:

"Dr Leon Le Dune was the leader of Harraton Chapel, later Rickleton Chapel, from 1970's until the early 2000's and worked alongside previous Vicars of St George's ... for many years. In the 1980's there was a joint church event called March for Jesus which both churches supported and which he helped orchestrate as part of our call to joint missional activity. Over the years as a trusted member of the community he took part in a number of funerals held in St George's church which continued into his early 80's. As a GP in Birtley for 32 years he had many patients in Harraton and Rickleton whom he served faithfully, always with a view to them experiencing the love of God through his practice and care. It is both of their wishes to be buried in the area that they served faithfully for so many years."

6. There is only a limited number of grave spaces left in St George's churchyard.
7. The law relating to the granting of faculties for the reservation of grave spaces was recently succinctly summarised by HH Peter Collier QC Diocesan Chancellor for York in the case of St Augustine, Kirkby-in-Cleveland [2021] ECC Yor 5:

“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.

It is very rare, in my experience, to allow a reservation of a plot, by someone who does not have a right of burial.”

8. The parishioners have historic links with the parish, but neither of them has the right in law to be buried in St George’s churchyard. If Dr and Mrs Le Dune were granted a faculty for the reservation of a double grave space, it would necessarily mean there would be at least one space less for parishioners; with only limited grave spaces left in St George’s churchyard, the rights of parishioners would therefore be prejudiced.
9. A faculty will not therefore be granted, and the petition is dismissed. I realise this will be disappointing to the Le Dune family, but it would not be appropriate in this case to override the rights in law of parishioners.

Adrian Iles, Chancellor

3 December 2021