

**IN THE CONSISTORY COURT OF  
THE DIOCESE OF GUILDFORD**

**Date: 6<sup>th</sup> August 2023**

**IN THE PARISH OF ST. BARNABAS CHURCH RANMORE**

**In the matter of a Petition for a faculty for the exhumation of the cremated remains of  
Stuart Brierley**

**JUDGMENT**

The petition

1. The Petitioner, Karen Gay Elizabeth Brierley, has applied for a faculty to exhume the cremated remains of her husband, Stuart Brierley. The ashes are currently interred in Ashes Plot, Ranmore Churchyard, St Barnabas Church, Dorking RH5 6SP. This is consecrated ground. The proposed place of re-internment is St Vigors with All Saints, Fulbourn, Cambridge CB21 5EP.
2. Stuart Brierley and the Petitioner have two children, Natasha and Timian. Both of them have written letters in support of the Petition.

Background

3. Stuart Brierley suffered a sudden coronary attack and died while out walking with his wife on 9.10.11. He was 62 years of age.
4. Mrs Brierley continued to live in Dorking and has been a frequent visitor to the place where Stuart Brierley's ashes are interred. However, last year she decided to move to Cambridge to be closer to her daughter and grandchildren. She has continued to visit the St Barnabas churchyard every week, which is a 2 ½ hour trip each way.

Reasons for the Petition

5. Mrs Brierley is aware that the time will come when she can no longer make the long drive to Dorking to visit her husband's grave. She speaks movingly of the grief that she has carried in the 12 years since his death. She, and her children, say that her mental and physical well-being has been greatly strengthened by being able to visit his grave and they are concerned that the inability to do so in the future will have a marked impact on her well-being.

Ecclesiastical law

6. *In re Blagdon Cemetery* [2002] 4 All ER 482 the Court of Arches considered the principles governing exhumation petitions. The essential principles are these:

- (i) Burial in a particular space permanently set aside for God is intended to be permanent and the peaceful rest of the departed is of paramount importance.
- (ii) A faculty court will only grant a faculty for an exhumation in exceptional circumstances. Whether the facts in a particular case warrant a finding that the case is to be treated as an exception is for the Chancellor/Deputy Chancellor to determine on the balance of probabilities.
- (iii) It is for the Petitioner to satisfy the court that there are special circumstances in her or his case which justify the making of an exception from the norm that Christian burial (that is, burial of a body or cremated remains in a consecrated churchyard or consecrated part of a local authority cemetery) is final.
- (iv) Moving away from the neighbourhood of the grave and thus finding visiting difficult would not normally of itself amount to exceptional circumstances.
- (v) Lapse of time is relevant but not determinative. However, a delay caused by the passage of time will make it less likely that an exhumation will be allowed, without very compelling reasons (*Re Christ Church, Alsager* [1999] Fam 142, [1999] 1 All ER 177 at p.149H).
- (vi) Medical reasons, if relied upon, have to be powerful, amounting to serious psychiatric or psychological issues.

Relevant factors arising in this petition

7. In considering whether there are exceptional circumstances in this case, the following factors appear to be relevant:
  - (i) Stuart Brierley died at a relatively young age and very suddenly, which was undoubtedly extremely traumatic and distressing for his wife and children.
  - (ii) It is over 11 years since Stuart Brierley's ashes were interred in the churchyard at St Barnabas' church.
8. The sudden death of her husband must have been extremely distressing for Mrs Brierley and she has found great solace in being able to visit his grave. It is said, and I entirely accept, that it will cause distress if, as the years go by, she becomes physically unable to visit her husband's grave. It is not suggested, however, that there will be serious psychiatric or psychological issues.
9. The decision as to the location of the place of internment of Stuart Brierley's ashes was, as far as can be ascertained, made for good reasons: it was, at that time, and for many years to come, local to where Mrs Brierley lived. She cannot have known that she would one day move to Cambridge.
10. This was not, therefore, a case in which a mistake was made at the time of burial: this is a case in which Mrs Brierley's circumstances have changed. That is not, without more, sufficient to dislodge the general presumption of permanence arising from the initial act of interment in consecrated ground.

11. While 11 years is not an inordinate amount of time, it is significant. There is good reason for the delay in making this Petition which is that, since her husband died, Mrs Brierley remained living in the Dorking area and decided to move only last year. The request to exhume her husband's cremated remains arises only because Mrs Brierley has moved house.

Conclusions

12. I have no doubt that this request arises from a genuine sense that the trauma suffered by the Petitioner will be heightened if she can no longer visit her husband's grave in future years. No Consistory Court could be lacking in sympathy for this family, and the other families of those who have died and who feel that healing and peace of mind can only be achieved by exhumation and reburial; and nor can any court fail to recognise the hurt that may be brought about by a refusal of such a petition.
13. However, burial in a particular space permanently set aside for God is intended to be for ever. This is a principle which must be honoured, and which can be set aside only in exceptional circumstances and for compelling reasons. I am required to follow the Court of Arches' guidance, which is that moving residence is not exceptional. I cannot find, therefore, on the evidence in this Petition, that exceptional circumstances are present in this case.
14. For the reasons given, I decline to grant this Petition.

**HHJ Sarah Whitehouse KC**

**6<sup>th</sup> August 2023**

**Deputy Chancellor**