

**IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY**

**HASELEY: ST. MARY**

**RE: A PETITION BY BARBARA STIRLING ORMANDY**

- 1) This case concerns a petition by Mrs. Barbara Ormandy seeking a faculty for the exhumation of the ashes of her late husband, Warwick Rowles Ormandy (“the Deceased”), and their re-interment at Braeside, Beatshach, Aberlour, Banffshire (“Braeside”). The Petition was supported by Mrs. Andrea Fuller and Mr. Mark Ormandy, respectively the daughter and son of the Petitioner and the Deceased. The Rev. Keith Mobberley, the vicar of the parish has signified his consent to the Petition.
- 2) However, the Petition was opposed by four formal objectors. Mrs. Tessa Wood is the sister of the Deceased. Mrs. Lynne Ormandy was from 1984 onwards in a relationship with the Deceased, the nature of which I will have to consider in due course. Mrs. Gail Ormandy is the former wife of Mark Ormandy. Mr. Richard Thompson was a friend of the Deceased.
- 3) On 11<sup>th</sup> August 2009 I heard the parties’ evidence and submissions. At that hearing the Petitioner was represented by Mr. Niall Blackie, a solicitor-advocate to whom I indebted for the clarity and moderation of his skeleton argument and submissions. The Objectors appeared in person with Mrs. Wood taking the lead in presenting their submissions and doing so clearly and succinctly.
- 4) For the reasons I will set out below I have decided to refuse the Petition.

**The Facts in Summary.**

- 5) The parties put a considerable body of written evidence before me. Those documents (as did the oral evidence) contained much that is irrelevant to the issues I have to determine. Accordingly, I do not need to decide all the sundry factual disputes between the parties.
- 6) The basic chronology can be summarised thus:

- The Petitioner and the Deceased were married on 11<sup>th</sup> December 1961.
  - In 1984 or thereabouts the Deceased and Lynne Ormandy began the relationship to which I have already referred.
  - On 16<sup>th</sup> January 1998 the Deceased executed a will in clause 3 of which he said "*I wish my body to be buried at Haseley Church*". I am told that the Petitioner executed a will in similar terms at the same time.
  - The Deceased died on 18<sup>th</sup> September 2005 as the result of a fall sustained at the matrimonial home.
  - On 29<sup>th</sup> September 2005 a casket containing the cremated remains of the Deceased was interred in the churchyard of St. Mary's, Haseley.
- 7) It is a sad feature of this case that there is very considerable animosity between the parties. Mr. Blackie's reference to a "*family at war*" is an apt description. A feature which reflects badly on the judgement and good sense of both sides in this dispute is that they have chosen to use the grave of Warwick Ormandy as the battlefield on which to fight out that war.
- 8) The Objectors contend that the Petitioner did not love the Deceased. Mrs. Wood says that her sister-in-law, the Petitioner, made the Deceased's life a misery. She asserts that this situation continued after the death of the Deceased and goes as far as to that the Petitioner is "*obsessed with hatred*" for the Deceased. The Objectors say that the Petitioner is continuing after the Deceased's death a campaign of animosity towards him which was begun in his life. They say that the Petitioner is concerned to prevent any tribute being paid to the Deceased and that it is for this reason that she removes, damages, or destroys floral tributes left by them at the graveside.
- 9) The Petitioner accepts that Lynne Ormandy was a close friend of the Deceased but does not accept that she was ever his mistress. The Petitioner regards the actions of Lynne Ormandy and the other objectors in leaving floral tributes accompanied by cards at the graveside of the Deceased as provocative. She describes it as a campaign of hatred directed against her and says that it has the effect, and is intended to have

the effect, of stopping her grieving. The Petitioner referred to the Objectors as her “*four tormentors*”. The Petitioner accepts that she has interfered with some of the tributes left on the graveside though there is a dispute as to the extent of this interference. The strength of the Petitioner’s feelings is shown by her reference to the cards which accompanied the various floral tributes as being “*obscene*”. Mr. Blackie invites me to consider the very real upset caused to a widow on finding at her husband’s graveside messages of endearment left for all the world to see by the woman who claims to have been the beloved mistress of that widow’s husband.

10) An indication of the pitch which has been reached is given by the Objectors’ actions in engaging enquiry agents to observe the Petitioner and the grave. The Objectors say that the surveillance was justified in that it resulted in the obtaining of evidence showing the Petitioner interfering with tributes left at the grave. The Petitioner says that it is part of the campaign of persecution being conducted against her.

#### **The Applicable Law.**

- 11) The approach which I am to take in considering this Petition was laid down by the Court of Arches in ***Re Blagdon Cemetery*** [2002] Fam 299.
- 12) I have a discretion but the starting point in exercising that discretion is the presumption of the permanence of Christian burial. That presumption flows from the theological understanding that burial (or the interment of cremated remains) is to be seen as the act of committing the mortal remains of the departed into the hands of God as represented by His Holy Church.
- 13) It must always be exceptional for exhumation to be allowed and the Consistory Court must determine whether there are special circumstances justifying the taking of that exceptional course in the particular case (the burden of establishing the existence of such circumstances being on the petitioner in the particular case).
- 14) Inevitably the category of potential special circumstances is not closed. However, the Court of Arches has indicated certain matters which will not of themselves amount to such circumstances. Thus a change of residence

by those who wish to visit the grave is not such a circumstance nor, by itself, is a change of mind by the relatives of a deceased person as to the most suitable resting place for his or her remains. In *Re Blagdon Cemetery* the Court of Arches did indicate that the views of the close relatives of a deceased person would be a matter of significance and also that movement to a family grave (or to form the basis for such a grave) could be a special circumstance justifying taking the exceptional course of allowing exhumation.

- 15) In my judgment the kernel of the approach laid down in *Re Blagdon Cemetery* is found at paragraph 35 where the Court of Arches said:

*“... We consider that it should always be made clear that it is for the petitioner to satisfy the consistory court that there are special circumstances in his/her case which justify the making of an exception from the norm that Christian burial ... is final. It will then be for the chancellor to decide whether the petitioner has so satisfied him/her.”*

- 16) The application of that approach to a particular case requires what is essentially a two-stage process addressing the factors being put forward as justifying exhumation. At each stage the Consistory Court must have regard to *“the straightforward principle that a faculty for exhumation will only be exceptionally granted”* (see paragraph 33 of *Re Blagdon Cemetery*).
- 17) First, the Consistory Court must consider whether the matters raised are capable in law of amounting to special circumstances. In doing so the Consistory Court must take account of the guidance of the Court of Arches in identifying certain matters which can and others which cannot of themselves amount to such circumstances. That will be a relatively straightforward exercise when the factors relied upon are included in the categories considered by the Court of Arches in *Re Blagdon Cemetery*. However, the list of potentially relevant factors considered in that case was not exhaustive. When addressing a factor other than those considered in that case the Consistory Court has to assess it in the light of the approach laid down therein. Thus the Consistory Court has to determine whether it is a matter which is something sufficiently out of the ordinary so as to be

capable in appropriate circumstances of justifying the Court in taking the exceptional course of ordering exhumation. This first stage in the process derives from the ruling in *Re Blagdon Cemetery* that there are categories of factors which can be identified as being either capable or incapable of justifying exhumation.

- 18) However, the mere presence of a factor which is capable of being a special circumstance for these purposes does not necessarily mean that exhumation should be ordered in any particular case. The Court has a discretion and the second stage of the process requires the Court to consider whether exhumation is justified in the light of the circumstances of the particular case. This stage derives from the existence of the Court's discretion and from the knowledge that the presence of a factor which is of a kind which can justify exhumation does not necessarily mean that exhumation is justified in the actual circumstances of a particular case.

**The Course proposed by the Petitioner.**

- 19) The Petitioner seeks to exhume the cremated remains of the Deceased and to re-inter them at Braeside.
- 20) Braeside is former keeper's cottage. The Deceased acquired the freehold of this property in October 1962 having rented it before then. Braeside was used as a holiday home by the Deceased and the Petitioner for many years. In May 2003 it was transferred to Mrs. Fuller. It was apparent from the evidence of the Petitioner and both her children (together with the evidence of Mr. Fuller) that the members of the Ormandy and Fuller families have great affection for Braeside and fervently hope to keep it in the family in the future.
- 21) There are three parts to Braeside. The house itself and the surrounding garden area amounts to about 2.7 acres. That roughly rectangular area is surrounded by a horseshoe shaped plot of about 4.77 acres. There is then a further triangular area (the blue land on exhibit P1) consisting of about 3 acres. It is in the blue land that it is proposed that the Deceased's remains should be re-interred.

- 22) Braeside is surrounded by largely open country and hills. The land immediately around it is former forestry land which is being restored to that use. Braeside is clearly located in attractive (many would say beautiful) countryside. Mrs. Wood accepted that the Deceased loved the property and its setting.
- 23) The blue land consists of grass and scrub the forestry trees which were formerly on it having been cleared and not yet re-planted. Mrs. Fuller describes it as simply being land on which the grass grows up in summer and dies back in winter. It is only fenced on one side and there is a woodland track (used, it seems, for forestry purposes) running alongside it.
- 24) The Petitioner's intention would be for a new grave to be created on the south-eastern side of the blue land at a point short of the woodland track. Access for persons other than those living or visiting Braeside would be effected by travelling along the woodland track and then walking across the blue land to reach the grave. I was told that the position under Scottish law was that there was a general right to roam which would entitle travel along that track and over the blue land.
- 25) The proposed site of re-interment is not yet consecrated. I was told that after an initial approach from the Petitioner Mrs. Fuller has been in discussion with the Right Reverend Mark Strange, Bishop of Moray, Nairn, and Caithness. Mrs. Fuller said that the Bishop had indicated that he would be prepared personally to consecrate land at Braeside and to re-inter the Deceased's remains there. It became apparent that the agreement from Bishop Strange was at the most a conditional one and that he had indicated that the suitability of the site would need to be confirmed before he could commit himself to undertaking its consecration.
- 26) On behalf of the Petitioner Mr. Blackie addressed my concerns as to access to the grave; the fact that the land is currently not consecrated; and as to the impact of a future disposal of Braeside. He said that those concerns could be assuaged as follows. Any faculty granted by me could be made conditional upon consecration of the land at Braeside having taken place before the exhumation. There would, accordingly, be no risk of

the Deceased's remains being transferred into unconsecrated ground. Following from that position Mr. Blackie pointed out, correctly, that consecration of the land would prevent its future alienation. He went on to say that I should proceed on the basis that the Bishop of Moray would only consecrate the land if suitable arrangements for its maintenance and for access to it were made. On that footing, Mr. Blackie says, I should envisage not a re-interment into the blue land in its current condition but rather a re-interment at that site after it had been placed in such a condition as would have satisfied the Bishop of Moray that it was appropriate to consecrate part of it.

27) As an alternative to re-interment at Braeside the Petitioner invited me to grant a faculty permitting re-interment at St. Margaret's Church in Aberlour. I was told little about that location other than that it is a church (with it is assumed a churchyard) under the jurisdiction of the Bishop of Moray and, of course, already consecrated.

#### **The Petitioner's Contentions.**

28) The Petitioner accepts that exhumation is exceptional and that special circumstances have to be shown to justify the grant of a faculty. However, she points to a number of matters which she says constitute special circumstances.

- a) The first is the situation in which the grave has become a scene of conflict. This has prevented the Petitioner from grieving for her departed husband. She asks the Court to put an end to this distress and says that this can be achieved by an exhumation and re-interment.
- b) There are then a number of related points (paragraphs 4(b) – (d) and elements of paragraph 4(a) of Mr. Blackie's skeleton argument) which amount to reference to the conduct of the Objectors. This conduct is said to consist of the provocative actions of Lynne Ormandy in falsely asserting an adulterous relationship with the Deceased and in making that assertion publicly; in the actions of the Objectors in placing the Petitioner under surveillance; and in the animosity shown towards the

Petitioner by the Objectors (including the making by them of an allegation that she was responsible for the Deceased's death).

- c) The Petitioner says that she will return to Scotland herself in due course; the Deceased had strong connexions with Braeside; and the Petitioner believes that he would have wished to return to Scotland but for his diagnosis of cancer in early 2005. In her evidence to me the Petitioner expressed an intention to end her days in Scotland but it is apparent that she has no firm or immediate plans for moving there.
- d) Finally, it is said that the proposed burial plot at Braeside would be a suitable resting place not only for the Deceased but also for the Petitioner, Mark Ormandy, and Mrs. Fuller. It would thus enable a family grave to be created. That is a matter which the Consistory Courts have repeatedly viewed as a desirable objective.

#### **The Arguments of the Objectors.**

- 29) The Objectors contend that the Petitioner's real motive in seeking to exhume the remains of the Deceased is to continue the campaign against him which she conducted while he was alive. They say that she is concerned to ensure that he receives no tributes or memorial. The Objectors also say that the Petitioner is concerned in particular to prevent tributes from them. The exhumation of the Deceased's remains and their re-interment at Braeside will put them at a remote location and one, moreover, which is under the control of the Petitioner or her immediate family. The Objectors say that it would be impracticable for them to visit the grave and certainly to leave tributes at it. In essence they say that to grant the faculty sought would be to give the Petitioner control of the Deceased's remains.
- 30) As a related argument the Objectors point to the Petitioner's conduct towards the Deceased both before and after his death. I have already explained that they say that she persecuted the Deceased before his death. They say that she has been anxious to prevent tribute to or memorial of him after his death. The Objectors point in this regard to the Petitioner's actions in removing flowers and cards from the current grave.



31) A further point made by the Objectors is to refer to the wishes of the Deceased. They refer to his wishes as expressed in his will and also, they say, orally. They say that the Deceased expressed a firm and considered desire to be buried at Haseley. There is a dispute as to the force or expression of the Deceased's wish for his remains to be at Haseley and I will consider that shortly.

**The Factual Disputes.**

32) I have already said that not all of the matters in dispute are relevant to my decision and I do not propose to make findings of fact as to irrelevant matters. However, there are some disputes which I do need to address.

33) The first point I will address is the suggestion that the Petitioner in some way brought about the death of the Deceased or was seeking to kill him. I make it plain that all other enquiries have ruled this out and that there is no basis other than unsubstantiated speculation for such a suggestion. I wholly reject the suggestion that the Deceased's death was anything other than a tragic accident. The Objectors to some extent backed away from their earlier allegations but they did not, in terms, retract them.

34) However, I do find that the Objectors' allegation in that regard was made because of a genuine (but I find wholly mistaken) belief and not out of malice. The facts that the allegation was believed and then was made show the depths of the suspicion, animosity, and lack of trust between the Objectors and the Petitioner and the consequences that such feelings can have. The Petitioner says that the Objectors are trying to persecute her. She characterises the false allegation as part of that persecution alongside the conduct of the Objectors at the graveside. I find that the Objectors were not deliberately persecuting the Petitioner and that they genuinely believed the various allegations they made. The allegations were ill-considered, unfounded, and inappropriate but they were not motivated by malice.

35) There is a dispute as to the relationship between Lynne Ormandy and the Deceased. The Petitioner says that Lynne Ormandy is falsely alleging a closer relationship than in fact existed and claiming to have been the

Deceased's mistress when she was only a close friend. The Petitioner says that this is relevant to the Petition because it shows and is part of the persecution to which the Petitioner is being subjected.

36) It is apparent that there was a close, lasting, and loving relationship between Lynne Ormandy and the Deceased. It may well be that following the Deceased's death Lynne Ormandy sees that relationship in a rosier light than would have been justified during its currency. Lynne Ormandy describes a life in which the Deceased was acting as if he had two homes and two wives going as far as to say that she and the Petitioner "*shared*" the Deceased. That description may overstate the extent to which Lynne Ormandy and the Deceased lived together. Nonetheless, Lynne Ormandy gave persuasive evidence as to the essential nature of the relationship. That evidence was supported by photographs and cards of various kinds confirming Lynne Ormandy's assertions. It may be that the Petitioner chose to shut her eyes to the reality of what was happening while her husband was alive or to accept his denials of the relationship. However, her own evidence indicated the nature of the relationship and her own suspicions. The Petitioner said that the Deceased repeatedly denied any impropriety in his relationship with Lynne Ormandy. In my judgment such repeated denials can only have come about if the question as to the nature of the relationship had itself been asked repeatedly and for it to have been so asked there must have been suspicion. Moreover, the Petitioner accepts that following the occasion when she found the Petitioner and Lynne Ormandy together on the Deceased's boat in Gosport she and the Deceased had a "*real good old argument*". That would not have happened if the presence together of the Deceased and Lynne Ormandy had been wholly innocent or had been regarded as being so. In those circumstances, I am driven to the conclusion that Lynne Ormandy's description of the nature of her relationship with the Deceased was essentially true.

37) The preceding finding has this relevance to the current proceedings. It means that the Petitioner is wrong when she characterises Lynne Ormandy's actions in placing tributes accompanied by cards expressing

love for the Deceased as the false assertion of a relationship made with the intent to harm the Petitioner. Lynne Ormandy has publicly asserted that she was the Deceased's mistress and has left on the grave cards expressing intimate love for him. That has been done in the context of a grave to which the public have access and which is visited by the Deceased's widow. The leaving of such cards is ill-judged, indiscreet, and unwise. It also shows a lack of understanding of or consideration for the feelings of the Petitioner. By her actions Lynne Ormandy is placing her own desire to grieve and to proclaim her relationship publicly above the claims of restraint and discretion. However, inappropriate though this action is it is not a false assertion let alone one made deliberately to hurt the Petitioner.

38) I turn to the question of the intention and motivation of the Petitioner.

There is no doubt that the Petitioner has feelings of anger towards the Objectors – feelings that she did not hesitate to express in strong terms in her evidence to me. The Petitioner gave me the impression that she is a somewhat determined and combative woman and there may have been times when she expressed herself in strong terms to the Deceased. Nonetheless, I reject the contention of the Objectors that the Petitioner is motivated by a persisting animosity towards the Deceased or by a desire to prevent there being any tribute to or remembrance of him. I have no doubt that the Petitioner is genuine in saying that the motive for this Petition is to move the Deceased's remains to a place where she can grieve in peace and without engaging in conflict with others making claims (as she would see it and as the Objectors appear also to see it) to the Deceased.

39) What of the Deceased's wishes? There is no doubt that the Deceased's will of 16<sup>th</sup> January 1998 expressed a wish to be buried in Haseley churchyard. The Petitioner says that this was not a considered or settled intention and the Deceased simply said this for something to tell the solicitor drawing up the will when the question was asked of him. However, January 1998 was not the only time when the Deceased expressed such a wish. I found the evidence of Lynne Ormandy both credible and

persuasive on this question. She said that she and the Deceased discussed where he wanted to be buried and that he had expressed a preference for Haseley having considered and rejected London (or rather the cemetery in London where his parents were buried) and Lossiemouth (which had connexions with his time in the Fleet Air Arm). Accordingly, I find that the Deceased did express a considered wish to be buried at Haseley.

- 40) There is dispute about the parties' conduct at the graveside. The Objectors say that the Petitioner removes or destroys the tributes and cards they leave. The Petitioner says that the cards and tributes are a deliberate provocation and describes the former as "*obscene*". There is some truth in both contentions and both sides are shown in a poor light by their conduct. The tributes from the Objectors and in particular the cards show a lack of sensitivity or discretion and amount to using the tributes as a way of laying claim to the Deceased. Conversely, I find that the Petitioner has removed cards and tributes from the grave. In doing so she is seeking to exercise control over the grave and to decide who can grieve for the Deceased and in what way.

### **Conclusions.**

- 41) I have to consider whether the matters established by the Petitioner are capable in law of amounting to special circumstances which could justify taking the exceptional course of ordering exhumation and also whether in the particular circumstances of this case I should exercise my discretion to grant a faculty for such action.
- 42) The conduct of the Objectors in making allegations against the Petitioner; in placing her under surveillance; and (in the case of Lynne Ormandy) having a photograph placed in the coffin are not, without more, capable of being circumstances justifying exhumation. They are similar in kind to the acrimony between family members which, all too often, occurs after the death of a loved one and which leads to ill-judged conduct and emotional accusations. They do not constitute circumstances which can justify an exception to the principle of the finality of Christian burial although in an

appropriate case where other factors are present they may be relevant to the exercise of the Court's discretion.

- 43) The creation of a family grave is capable of being a special circumstances in an appropriate case (see the position in *Re Blagdon Cemetery* itself) but that would not be the position where family members had simply changed their minds as to the suitable resting place for a departed person's remains. In the circumstances here the possibility of creating a family grave at Braeside is a recent suggestion. It is not the principal motive for the Petition. It is seen by the Petitioner as an argument supplementing and supporting her main contentions but as not, in itself, the ground for granting the Petition and I regard it in the same light.
- 44) I turn to the conflict at the graveside and the fact that the Deceased's grave has become the focus of an unseemly dispute. This was not something that was considered in *Re Blagdon Cemetery* but it is in my judgment capable of being a special circumstance justifying exhumation. It is something sufficiently out of the ordinary and potentially so related to the particular gravesite as to be capable in appropriate circumstances of justifying the Court in taking the exceptional course of ordering exhumation. Given that such conflict is in principle capable of being a good ground for exhumation I will have to consider whether the particular circumstances of this case are such that exhumation is appropriate.
- 45) The wishes of the Deceased are a significant factor to be considered. They cannot be conclusive because the Deceased cannot have envisaged the current circumstances. However, even though not conclusive such wishes must carry considerable weight particularly where (as I have found is the case here) they were repeated and were the result of careful thought.
- 46) The current situation of the land at Braeside would not be suitable for the interment of the Deceased's remains. Even if, as Mr. Blackie submits, I should assume that the Bishop of Moray would ensure there was alteration of the site before consecration it is clear that access to the grave without the goodwill (indeed without the support) of the occupiers of Braeside

would be problematic at best. The re-interment of the Deceased's remains at Braeside would amount to giving control of access to them to the Petitioner's family. The Petitioner and her witnesses said that access would be possible and visitors to the grave would not be impeded. However, it is clear that the Petitioner and her family see re-interment of the remains at Braeside as an opportunity to control access to the Deceased's grave and, moreover, to ensure that such access is on terms they find acceptable. In answer to questions from me the Petitioner said that she would have no objection to other persons visiting the grave if the Deceased were to be re-interred at Braeside. She went on to say that she would be content if visitors left "*sensible floral arrangements*" but "*would object to the obscene cards*" indicating an intention to resist such activity if there were to be exhumation followed by re-interment at Braeside.

- 47) The preceding two points are significant factors against exhumation. There is, however, an even more telling one and it is that which is the crucial determining factor in this case. This is that the conflict at the graveside is not caused by the fact that the Deceased's remains are interred in Haseley and would probably not be ended by their removal from Haseley. The conflict comes about not because the Deceased's remains are at Haseley but for other reasons wholly unrelated to the location of the grave. In essence there is conflict because each side is seeking to control access to the Deceased's grave and to lay claim to a particular relationship with him. The Objectors lay tributes accompanied by cards in which they assert their relationship with the Deceased. The Petitioner for her part takes offence at these tributes; removes and interferes with them; and seeks to prevent their recurrence. Sadly for so long as both sides choose to continue their current unseemly conduct there is a significant risk of conflict focussed on the grave of the Deceased wherever such a grave is located (provided that it is a site to which both sides have access). The only reason there might be a calmer situation at Braeside would be that the Petitioner and her immediate family would have *de facto* control over the grave (though even at that location there would be a risk of conflict). There has been fault on both sides. Even if there had not been it

would not have been appropriate to seek to end the conflict by effectively delivering the Deceased's remains into the hands of one side to the exclusion (for practical purposes) of the other. I fear that granting the faculty sought here would be perceived as having that effect.

- 48) The Petitioner's fall-back position of St. Margaret's Aberlour would be more acceptable than Braeside in terms of its layout and accessibility. However, a move there would not end the conflict and so suffers from the same fundamental objection to exhumation.
- 49) The position, therefore, is that exhumation would not end the current conflict. It would move the scene of battle and might give a tactical advantage to one side but it would not put an end to the unseemly and demeaning conduct of the parties. Exhumation is an exceptional course. It should not be ordered if its result would simply be a continuation of conflict at another location. I conclude that would be likely to be the position here.
- 50) Accordingly, I refuse the Petition. The site of the grave remains marred by demeaning and unseemly conduct. The solution to that is not for me to order the taking of the exceptional course of exhumation. Rather the answer is for each side to show restraint and compassion. I note that in her evidence to me Mrs. Wood said that she would undertake not to leave cards at the grave in the future. It was not clear whether this offer was made solely on her behalf or on behalf of all the Objectors. I do not intend to make any formal order in that regard because I fear that could lead to further dispute as to whether there has been compliance. However, I do urge the Objectors to consider the good sense of Mrs. Wood's proposal. If the Objectors simply wish to pay tribute to the Deceased then they can do so by leaving flowers without the cards which are seen as a provocation by the Petitioner and which I have already described as ill-judged. For her part the Petitioner has indicated that she does not take exception to the leaving of floral tributes in themselves and I hope that in future she would feel able to leave such tributes without interfering with them.
- 51) I will consider any representations which the parties wish to make as to costs. As to costs my current but provisional intention (which I emphasise

is subject to further representations) in accord with my understanding of the approach laid down by the Court of Arches in **Re St. Mary the Virgin, Sherborne** [1996] 3 All.E.R 769, is as follows:

- a) I intend to order that the Petitioner to pay the court fees attributable to the Petition, to include the costs of the hearing and of this judgment. It was the Petitioner's action in bringing the Petition which caused those costs to be incurred and the starting point is that she should bear those costs. There is nothing in this case which would, in my assessment, justify departing from that position. Indeed, the Petition having failed the position is reinforced.
- b) However, my current intention is to make no inter partes costs order. My provisional assessment is that the conduct of all parties has been such that it cannot be said that the Petitioner's action in bringing the Petition was unreasonable so as to make it appropriate for her to pay the Objectors' costs.

52) I make the following directions consequent upon refusal of the Petition:

- a) This judgment will be despatched to the parties and to the solicitors for the Petitioner on 2<sup>nd</sup> September 2009.
- b) The Consistory Court being a public court I direct that the Registrar shall provide copies of this judgment (on payment of reasonable photocopying charges if a paper copy is sought) to any person requesting the same after 9.00am on 4<sup>th</sup> September 2009.
- c) If any party wishes to make oral representations as to costs or any other matter consequent upon the refusal of the Petition that party shall on or before 4.00pm on 11<sup>th</sup> September 2009 notify the Registrar in writing, sending copies of that notification to the other parties,
- d) In the event of such notification:
  - i) The Registrar shall fix a hearing.
  - ii) Each party shall on or before 4.00pm on 25<sup>th</sup> September 2009 send to the Registrar a written summary of the submissions to be made



at the hearing and shall serve a copy of the same on the other parties.

- e) If no such notification is given then any written representations as to costs or any other matter consequent upon the refusal of the Petition shall be sent to the Registrar with copies served on the other parties on or before 4.00pm on 25<sup>th</sup> September 2009.
- f) I shall make a final ruling as to costs and any other consequent matters either at the hearing to be arranged pursuant to paragraph (d)(i) above or after the expiry of the time for written representations.

STEPHEN EYRE  
CHANCELLOR  
25<sup>th</sup> August 2009