



Faculty – Petition for the reservation of a grave space within the churchyard – Petitioner nearly 83 years of age and resident in the parish and on the church electoral roll for over 25 years – Only sufficient space remaining within the churchyard for about the next three years – Incumbent, churchwardens and PCC all supporting the reservation of a grave space next to the grave of the petitioner’s recently deceased husband – Whether exceptional circumstances justifying reservation – Faculty granted for the usual period of 25 years

Petition No: 11059

**IN THE CONSISTORY COURT OF
THE DIOCESE OF OXFORD**

Date: Monday, 4 November 2024

Before:

THE WORSHIPFUL DAVID HODGE KC, CHANCELLOR

In the matter of:

St James the Great, Radley

THE PETITION OF:

Mrs Angela Mary Antoinette Parke

This is an unopposed petition, determined on the papers and without a hearing.

There were no objections to the petition

The following authority is referred to in the judgment:

Re St James the Great, Radley [2024] ECC Oxf 5

JUDGMENT

1. On 11 August 2024 I handed down judgment on a petition, dated 28 December 2023, by Mrs Priscilla Bowers seeking a faculty authorising the reservation of a grave space in the new churchyard of St James the Great, in the Parish of Radley, between Oxford and Abingdon, for

the exclusive burial of her mortal remains for the usual period of 25 years from the date of grant of the faculty. Mrs Bowers was then 72 years of age; and she had been resident in the parish for more than 50 years. Entirely understandably, Mrs Bowers wished to be laid to rest in the burial space next to that where her late husband, Bill, had recently been buried following his death on 13 March 2023. By a certificate forming part of the petition, and dated 27 January 2024, the Rector and the two churchwardens had certified that the average number of burials was six per year; and they estimated that the remaining space in the churchyard would be sufficient for the needs of the parish for only another three years. At a special online meeting held on 3 January 2024, the Parochial Church Council (the **PCC**) had unanimously passed a resolution supporting that faculty application. I noted that the same resolution had also resolved to support faculty applications for the reservation of two further spaces in the churchyard, one for a full body burial and the other for cremated remains. For the reasons set out in my judgment in that case, which bears the neutral citation number **[2024] ECC Oxf 5**, I determined that Mrs Bowers had demonstrated exceptional circumstances justifying the reservation of a grave space in the churchyard for the standard period (for this diocese) of 25 years from the date of grant even though only about three years space remained available for future burials within the churchyard.

2. At paragraph 22 of my judgment, I recorded that my decision in that case should not be treated as creating a precedent for any other petitions that might be presented in relation to this churchyard, particularly in light of the PCC's recently formulated, and articulated, policy of no longer supporting any further reservation of grave spaces. I noted that neither of the other two reservation applications which the PCC had voted to support were before me; and that I knew nothing about the circumstances of either application. I emphasised that the decision on Mrs Bowers's petition should not be regarded as affording any guide to the outcome of either of those other two applications should they ever come before me. The circumstances of her application were exceptional.

3. One of those other two petitions is now before me. The petitioner is Mrs Angela Mary Antoinette Parke. She will be 83 years of age in four days' time, on 8 November 2024. She seeks the reservation of a full body burial space (Row I, No VIII) in the new churchyard between the existing graves of C. Steptoe and her late husband, Mr James Morton Hunt Parke, who died on Christmas day 2022 and is buried in Row I, No IX. According to her petition, dated 21 March 2024, Mrs Parkes is resident in the parish, and also on the church electoral roll, and she has been for 25 years and nine months. As with Mrs Bowers's petition, the Rector and the two churchwardens have certified that the average number of burials is six per year; and they estimate that the remaining space in the churchyard will be sufficient for the needs of the parish for only another three years. At a meeting held on 22 April 2024, the PCC voted unanimously to accept Mrs Parke's request. The printed minutes note that Mrs Parke is a regular worshipper, and although the PCC had voted not to allow any more reservations, she had put this request through before the PCC had voted not to allow any more reservations and it had taken a long time to process. A manuscript addition to the minutes records that the PCC had since found that they had not agreed to stop any more reserved spaces. This had been agreed at an informal standing committee meeting, and at that time was on the agenda for the PCC meeting in September 2024.

4. In a supporting email dated 1 August 2024, one of the churchwardens explains that Mrs Parke and her husband had worshipped at St James, Radley, for decades. Jim was buried in the churchyard in December 2022. Mrs Parke's request to reserve a grave space next to her late

husband had taken time to complete at their end. This was partly due to Mrs Parke's fragile mental health, but also because the church administrator had been treated for cancer last year and had sadly passed away. Certain paperwork seemed to have been delayed, but the parish now had a new administrator and the churchwarden was helping her to settle in and get on top of matters. The parish had talked about stopping anyone else reserving grave spaces as the parish only have about three years of burial space left but, as yet, they had not passed this at PCC level. This was on the agenda for September. The parish would very much like to honour Mrs Parke's request. In a further email, dated 2 August, the churchwarden added that Mrs Parke is a much valued member of the congregation and village. The churchwarden wanted the chancellor to be aware that this whole process was causing Mrs Parke a lot of anxiety. *"She is desperate to know that she can be next to her husband in death and the uncertainty is exacerbating already fragile mental health."*

5. Having received this faculty petition and the supporting emails late on the morning of 19 August, I responded to the Registry by email that same lunchtime. I reproduce the contents of my email in full:

I am very concerned about what is revealed by this latest email exchange.

Mrs Angela Parkes was one of the three people who featured in the resolution passed by the PCC on 3 January 2024 in support of a faculty to reserve grave spaces in the new churchyard.

The churchwarden says in her email dated 2 August 2024 that: *"We had talked about stopping anyone else reserving spaces as we only have c 3 years of burial space left but as yet gave [sic] not passed it at PCC level. This is on the agenda for September. We would very much like to honour Angela's request."*

However, in his letter written in support of Mrs Priscilla Bowers's application, the Rector states in terms, as I set out at paragraph 10 (1) of my judgment:

The PCC has passed a resolution to the effect that we would now not support any further reservations of graves.

The Rector's assurance formed an important part of my reasons for granting Mrs Bowers's faculty application. I am concerned that I may have been misled. Please can you ask for an explanation from the Rector and the parish. I may need to consider setting the faculty aside on the grounds that it was procured by a material misrepresentation of fact.

So far as Mrs Parke's application is concerned, why cannot her cremated remains be laid to rest in her late husband's grave? What was she told about the limited space remaining in the churchyard at the time of her late husband's burial?

If Mrs Parke's case were on all fours with Mrs Bowers's application, and the faculty was properly granted to her, then I can see that they should both be treated equally. But Mrs Bowers had good reasons why her cremated remains could not be laid to rest in her husband's grave. Has Mrs Parke similar valid reasons?

In any event, I should not consider this application in advance of the expiry of the display period for the public notices. In the meantime, however, I would invite a response to my queries.

6. I heard nothing more until an email from the Registry on 31 October. This confirmed that the public notice period had expired, and no objections had been received. After following up my queries with the Rector and churchwarden, the Rector had written to me in the following terms, on 28 October:

I am writing further to correspondence concerning the application to reserve a grave space for Priscilla Bowers. I wrote in support of that application, but I now realise that I made an error of fact when doing so, which you kindly brought to our attention.

I wrote that ‘The PCC has passed a resolution to the effect that we would now not support any further reservations of graves.’ Whilst it was true that the PCC had discussed this matter, having checked back on previous minutes, we can find no record of actually having formally passed the resolution. Minutes of a meeting on 22 April 2024 include the words: ‘the PCC had voted not to allow any more reservations’, which is what had caused my confusion. I would like to express my sincere apologies. This was a mistake on my part and I ought to have checked before I wrote to you. I can assure you that this was not a deliberate attempt to mislead, simply an error on my part. Our churchwarden was correct when she wrote to you, and I also should have checked with her.

A resolution not to accept any further grave reservations is on the agenda for the next PCC meeting on November 25 2024 because, as you will be aware, there is now limited space in the churchyard. We will amend the minutes of the 22 April meeting so that they accurately reflect the position of the PCC at the time.

As a PCC and as Rector, we still support the applications for reservations of space for Mrs Bowers and of Mrs Parke and I hope that my mistake will not cause their families any undue anxiety.

If I can be of any further help in this matter, please let me know. I reiterate my apologies.

7. I accept the explanation and the apologies tendered by the Rector. I consider that no further action is required in relation to the faculty granted to Mrs Bowers. So far as Mrs Parke is concerned, in an email to the Registry, on Saturday 2 November, I asked the Registry to chase up my earlier queries relating to Mrs Parke:

So far as Mrs Parke’s application is concerned, why cannot her cremated remains be laid to rest in her late husband’s grave? What was she told about the limited space remaining in the churchyard at the time of her late husband’s burial?

If Mrs Parke’s case were on all fours with Mrs Bowers’s application, and the faculty was properly granted to her, then I can see that they should both be treated equally. But Mrs Bowers had good reasons why her cremated remains

could not be laid to rest in her husband's grave. Has Mrs Parke similar valid reasons?

This provoked the following response from the Rector to the Registry earlier today:

As far as I know:

1. Mrs Parke has a strong preference to be buried rather than cremated. But I can't speak for her, and she may have additional reasons that I'm not aware of.
2. I cannot recall anything specific that Mrs Parke was told at the time of her late husband's burial concerning the amount of space remaining. All that I can recall saying when she asked about the possibility of reserving a space is that it would be subject to the usual faculty process.
3. I don't know that I can answer this beyond what I've said above.

I hope that's helpful. I can also provide a contact detail for Mrs Parke (if she agrees) if you don't have one already and need further information about the questions the Chancellor poses.

8. Given the anxiety that this faculty application is apparently causing Mrs Parke, her age, and her fragile mental health, I do not consider that it would be appropriate for me to require the Registry to direct any further inquiries to Mrs Parke. I am satisfied that it is appropriate for the court to treat her faculty application as being on all fours with Mrs Bowers's application. Indeed, since Mrs Parke is some ten years older, her life expectancy is less. I am satisfied that fairness and consistency dictate that Mrs Parke's application should be determined in the same way as the application made by Mrs Bowers.

9. For these reasons, I will grant Mrs Parke a faculty for the reservation of the grave space in Row I, number VIII in the new churchyard of St James the Great, in the Parish of Radley, for the usual period of 25 years from the date of grant. The faculty will be subject to the following conditions:

- (1) The PCC formally passing a resolution not to support any further grave space reservations.
- (2) The benefit of the reservation is personal to the petitioner and is non-assignable.
- (3) Any fees payable under any current diocesan parochial fees order must be paid to the minister and the PCC of the parish within 56 days of the grant of the faculty.
- (4) The reservation shall be recorded in the parish records; and the location of the reserved grave space shall be marked on the ground by a suitable, and durable, marker.

David R. Hodge

The Worshipful Chancellor Hodge KC

4 November 2024