

Neutral Citation Number: [2024] ECC Lin 3

IN THE CONSISTORY COURT AT LINCOLN

In the matter of the exhumation of the remains of Christopher Giles Shennan deceased

And in the matter of the consecrated part of Barrowby Burial Ground

Judgment

1. The applicants Ms Julie Moss (clerk to the Parish Council) and Melissa Shennan (widow of the deceased) seek the exhumation of Christopher Giles Shennan's remains which are interred at Barrowby Burial Ground in a consecrated plot. Mr Shennan died on 13 August 2024. The interment took place on 13 September 2024. A faculty is sought to permit the exhumation and reinterment because of an error that has occurred when the grave was dug. Regrettably the grave digger was given incorrect information to dig a single depth grave when it should have been a double depth grave. The application is to permit the digging of a double depth grave at the same plot. This will require a trench to be dug to move the coffin to one side at its current level, to enable the lower depth to be dug and then for the coffin to be interred at the correct level.
2. The applicants are the widow and the clerk of the Parish Council who support the application. The Council will be responsible for all the additional costs incurred. The deceased's mother has also agreed and on this basis, I can properly infer that all the family are in agreement with this application.
3. The undertaker does not suggest that what is proposed cannot be achieved.

Discussion

4. The principles by which an exhumation from consecrated ground is permitted are well known and set out in the case of In Re Blagdon Cemetery 2002 Fam p299.
5. The presumption is that burial of human remains in consecrated ground is permanent. This presumption arises from the Christian theology of burial which

was set out at para 23 of the judgement in Blagdon in the quotation from The Bishop of Stafford's paper on the 'Theology of Burial'. He wrote

"The funeral itself articulates very clearly that its purpose is to remember before God the departed; to give thanks for their life; to commend them to God the merciful redeemer and judge; to commit their body to burial/cremation and finally to comfort one another."

He went on to explain:

"The permanent burial of the physical body/ the burial of the cremated remains should be seen as a symbol of our entrusting the person to God for resurrection. We are commending the person to God, saying farewell to them (for their 'journey'), entrusting them in peace for their ultimate destination, with us, to the heavenly Jerusalem. The commending, entrusting, resting in peace does not sit easily with 'portable remains' which suggests the opposite: reclaiming, possession, and restlessness; a holding onto the 'symbol' of human life rather than a giving back to God"

6. The principle of permanence can only be departed from if there are special circumstances which justify an exception to the principle that Christopher Giles Shennan was laid to rest in September this year and his remains should not now be disturbed.
7. The Court of the Arches in Blagdon identified various factors which may support a submission that special circumstances have arisen which permit the remains to be exhumed. These factors include where there has been a mistake made about the burial. Where there has been a simple error in administration, such as burial in the wrong grave, or at the wrong depth, the Court held that faculties for exhumations could readily be granted. Of more difficulty is where there is a failure to understand or appreciate the significance of burial in consecrated ground in a municipal cemetery.

Decision.

8. It is always exceptional to grant an exhumation, however I am satisfied that exceptional reasons do exist in this case for an exhumation to be permitted. There

has plainly been a mistake in the depth of the grave being dug and this can now be remedied by a faculty.

9. The exhumation must be carried out discreetly with appropriate screening so as not to alarm those visiting the burial ground and at a time when there will be minimal risk of visitors being aware of the exhumation. Notice must be given to the environmental health department of the relevant District Council. It is my understanding that the process will be completed within one operation. However, the reinterment to the final resting place must be within 24 hours of the commencement of the works. A further condition is that the Parish Council are wholly responsible for the costs of this application made necessary by this error, and the costs of the exhumation and reinterment.
10. Whilst I am sure that all recognise that errors can occur, an error that requires a Faculty to exhume and reinter so soon after a funeral is a serious mistake which will no doubt have been extremely distressing for Mrs Shennan and her family. I am sure that the Parish Council fully understand this, but I would be grateful for Ms Moss's assurance that the means by which gravediggers are given such important information before they dig, has been reviewed, and that such a mistake will not occur again.
11. In the circumstances I waive my fee.

The Revd and Worshipful Chancellor, HH Judge Mark Bishop
Chancellor
26th November 2024