

IN THE CONSISTORY COURT OF THE DIOCESE OF CHELMSFORD

**IN THE MATTER OF TOLLESHUNT KNIGHTS CEMETERY, BLIND LANE: PETITION
NO. 3145**

JUDGMENT

1. The Petitioner in this matter is Mrs Stella Yiasimi. She applies for the reservation of a double width grave space for herself and for her husband, Mr Panayiodis Yiasimi, in the cemetery at Tolleshunt Knights, near Tiptree in Essex (“the Cemetery”). Mr and Mrs Yiasmi are both in their 80s.
2. I have determined this Petition without a hearing and on the basis of written representations only. Following my initial consideration of the papers, on 18 July 2025, the Registry, at my direction, indicated to the Petitioner that I was unlikely to grant the Petition sought. The Petitioner was invited, in those circumstances, to express her views on my determining the matter on paper, in accordance with Rule 14.2 of the Faculty Jurisdiction Rules 2015 (as amended), and to make any further submissions or to put forward any further material on which she wished to rely. On 4 August 2025, the Petitioner indicated that she was content that I determine the Petition on paper and on the basis of the materials before me.

The Cemetery

3. The Cemetery is in the grounds of the former parish church of Tolleshunt Knights, All Saints’. All Saints’ is, however, no longer an Anglican church. It was acquired in 1957 by the Eastern Orthodox Christian Church, and is used as a chapel by the community of the nearby Monastery of St. John the Baptist (“the Monastery”).
4. The Cemetery now – and in particular since the coming into effect of a Pastoral Scheme on 14 December 2023 – lies within the parish of Tiptree with Tolleshunt Knights and Great Braxted (“the Parish”), which forms part of the Benefice of Thurstable and Winstree. The parish churches for Tiptree with Tolleshunt Knights and Great Braxted are All Saints, Great Braxted, and St. Luke, Tiptree (“St. Luke’s”). The Cemetery is in the care of the Parochial Church Council of Tiptree with Tolleshunt Knights and Great Braxted (“the PCC”). The Revd. Anne-Marie Renshaw was the Team Rector (“the Team Rector”) until very recently, but became Archdeacon of Morgannwg in the Diocese of Llandaff on 21 September.

5. St. Luke's has a churchyard, but it is closed to new burials by Order in Council. The Monastery has a small burial ground of its own, but its policy is to allow only resident members of its community to be buried there.
6. Until the coming into effect of the Pastoral Scheme, the only burial ground available to residents of Tolleshunt Knights and Tiptree was the Cemetery. Since the implementation of the Pastoral Scheme, another burial ground has become available – that of Great Braxted: All Saints has a churchyard, which is open. However, this has not made a great deal of difference to the amount of burial space available, because the number of parishioners has, naturally, increased since the enlargement of the Parish. The closest local authority cemetery is in Colchester, some 12 miles away.
7. The petition is not supported by the PCC, nor by the Team Rector, for reasons which I set out below.

The history of this Petition, and the grounds on which it is based

8. The Petition was originally issued on 20 October 2020. Mr and Mrs Yiasmi did not, at the time, live in the Parish: they lived in Cromer in Norfolk, and thus had no legal right to be buried in the Parish. The grounds given by Mrs Yiasmi for the Petition were that she and her husband wished to be buried in the Cemetery because they had been visiting the Monastery for 30 years. She said that they *"feel like family with the Holy Fathers and Sisters there and would like to be near the Monastery"*.
9. In response to the Petition, the Team Rector indicated (in November 2020) that there were 80 grave spaces available for future burials and that, on the basis of an average of 4 burials in the Cemetery for the last three years, the Cemetery would fulfil the needs of the parishioners for another 20 years. She also advised that the PCC had resolved not to support the Petition.
10. In a letter to the Registry dated 18 November 2020, the Team Rector explained in more detail the reasons why the PCC was not prepared to support the Petition. She noted that Mr and Mrs Yiasimi do not live in the Parish and have no connection with either of the Parish churches. Their only connection is with the Monastery. The Team Rector explained that the Monastery attracts a large number of visitors from across the UK and Europe, and that the PCC often receives inquiries from visitors about reserving a space in the Cemetery. As a result, she advised, the PCC has adopted a policy of supporting only applications for grave reservations from residents of the Parish or from people who have a connection with the Parish churches. The policy has been adopted on the basis that the PCC consider that it is their responsibility to preserve the Cemetery as a place where residents of the Parish can be buried, particularly since the

closure of St. Luke's churchyard. The Team Rector also noted that the Petitioner was seeking a double width space, i.e., in effect, two spaces. She concluded,

"The PCC does not wish to be inhospitable, but is anxious not to find itself overwhelmed with a large number of grave spaces reserved for people who do not live in the local area."

11. My predecessor as Chancellor, the late George Pulman Q.C., gave initial consideration to the Petition. On 14 December 2020, the Registry conveyed his directions to the Petitioner, as follows:

"I am not able to grant a faculty at this stage. This is because the Petitioners have no right to a grave space. This is because they do not live in the parish nor do they worship in the parish church nor are they on the church electoral roll. There are many who come to worship at the Monastery who have sought a reserved grave space in the church's churchyard but who have been refused. The [PCC] says that if these were permitted their churchyard would be filled by people with no connection to this church.

It is open to the Petitioners to seek a faculty after a hearing in open court. There is, of course, a risk that they will be ordered to pay the legal costs. The usual rule is that the Petitioners pay the legal costs. The prospect of success would depend on what evidence was put before the Court."

12. The Registry invited the Petitioner to respond to that letter so that the Petition could be finally determined.
13. No response was received by the Registry, and on 21 September 2021, the Registry Clerk wrote to the Team Rector to ask whether she was able to supply an update. In her response of the same date, the Team Rector noted that she had heard nothing further from Mr. and Mrs. Yiasimi. She pointed out that they did not live locally and had no connection with St. Luke's (which was, at the time, the only Parish church) so were not known to her personally; indeed, they had submitted the Petition to the Registry without sending it to her first.
14. There matters rested until June 2024. On 5 June 2024, the Registry received an email from Ms Rothoulla Fiakka, for and on behalf of Mr. and Mrs. Yiasimi. She stated that the Petition had been refused by the Chancellor but that Mr. and Mrs. Yiasimi *"were advised that they could appeal the decision, which they did not do at the time"*. She indicated that they *"now would like to proceed with the appeal as they have very strong ties to the area"*, and asked for details of *"the appeal procedure"*.

15. The flaw in that statement was that the Petition had never been finally determined. Given that three and a half years had passed since the matter had last been before the Court, I considered it appropriate to give further directions, rather than simply proceeding to determine the Petition as it then stood. Accordingly, on 25 July 2024, through the Registry, I invited the Petitioner to provide in writing any further information which she wished to submit in support of the Petition. I also asked the PCC to consider the Petition afresh, given the passage of time. I directed the display of Public Notices, and I indicated that I would consider the Petition afresh once I had received a response from the Petitioner, a fresh PCC resolution and a certified Public Notice.
16. In September 2024, Mrs Yiasimi provided a further statement in support of her Petition, which was received by the Registry on 18 September 2024. In that statement, she explains her strong connections with the Monastery, and the distance that she and her husband have travelled on a regular basis in order to be close to them. She indicates that she and her husband are *“committed wholeheartedly to the church, the community and the locality that have become central to our lives and contribute to our spiritual and mental wellbeing”*. She expresses a desire to be close to members of the Monastery community who are buried at the Monastery *“and for the remainder of the community of monks and nuns, who have become my family, to be able to visit my grave”*.
17. That statement was passed to the Team Rector, who indicated that she considered it unlikely that the PCC would have changed its views. That proved to be the case. The PCC has indicated that its policy remains unchanged and, at its meeting on 12 November 2024, resolved not to support the Petition. The Team Rector has since also indicated expressly that the PCC’s policy remains unchanged. In an email to the Registry, she said:
- “The Orthodox Monastery receives thousands of visitors every year from across the south-east and London. The Monastery Community does not permit these visitors to be buried in their own burial ground and they fully support the PCC’s policy of preserving grave spaces for those who have the legal right of burial. The PCC receives regular enquiries from visitors to the Monastery about reserving grave spaces. If everyone who had enquired in the last ten years had been permitted to reserve a grave space, the capacity of the Burial Ground would have been reduced by about 5-7 years.”*
18. Following the exchanges of late 2024, there was some delay because, unbeknownst to the Registry, the Petitioner and her husband had moved to Haverhill in Suffolk. Once their new address was ascertained, Public Notices were displayed. No objections were received and the matter thus reverted to me.

The relevant law

19. In Re St. Mary, Thame [2022] ECC Oxf 2, Chancellor Hodge QC (as he then was) set out an exhaustive survey of the authorities relating to grave reservations, and identified a number of key principles. I adopt his analysis, and that in the other cases to which I refer below, with gratitude.
20. The particular principles relevant to the determination of this Petition are the following:
 - (i) At common law, every person living in a parish has a right of burial in the churchyard unless it has been closed by Order in Council. That right also extends to persons who die in the parish, even if they are not parishioners.
 - (ii) By s. 88(1) of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 ("the 2018 Measure"), persons on the electoral roll of a parish enjoy a similar right.
 - (iii) By s. 88(4) of the 2018 Measure,

"A person who does not have a right of burial in the churchyard or other burial ground of a parish may not be buried there, or have his or her cremated remains buried there, without the consent of the minister of the parish."
 - (iv) That power is vested in the minister on the basis that s/he is the freehold owner of the churchyard. S. 88(5) of the 2018 Measure requires the minister, in deciding whether to give consent, to have due regard to any general guidance given by the PCC of the parish.
 - (v) So far as the reservation of particular burial places is concerned, s. 65(4) of the 2018 Measure provides that an exclusive right to a burial place can be granted only by Faculty. It follows that if an individual wishes to reserve a grave space in a churchyard or burial ground, s/he must petition for a Faculty, and that the decision as to whether to allow that grave space to be reserved rests with the Chancellor, as a matter of his/her discretion.
 - (vi) Different principles apply depending on whether the petitioner has a legal right to be buried in the churchyard, or not.

- (vii) Where the petitioner has a legal right to be buried in the churchyard, and where there is ample space, such that the churchyard will serve the needs of the parish for many years, a reservation will usually be freely granted.
- (viii) Where the petitioner does not have a legal right to be buried in the churchyard, a Faculty can be applied for with the concurrence of the incumbent: see Re West Pennard Churchyard [1992] 1 W.L.R. 32, and Re Churchyard of Wick, St Lawrence [2013] (Timothy Briden Ch, Bath and Wells).
- (ix) It was held in those cases that the absence of consent from the incumbent means that a petition must necessarily fail, i.e. the incumbent has a right of veto. However, it has been suggested elsewhere that absent that concurrence, a Faculty can be granted – but only in an exceptional case: Re St. Mary Magdalene, Bolney [2022] ECC Chi 4. I have some difficulty in seeing how that can be correct, in the light of the wording of s. 88(4) of the 2018 Measure and the reasoning in West Pennard and in Wick, which seems to me persuasive; but, for the reasons explained below, I do not have to decide that point.
- (x) A PCC is entitled to have a policy in relation to granting, or not granting, grave reservations. That policy cannot bind the Court. However, where the policy is considered, reasonable and fair, the Court will only be entitled to depart from it in exceptional circumstances.

Discussion

- 21. Applying the law above to the facts of this case, I have come to the conclusion that I am unable to grant the Petitioner a Faculty.
- 22. As I have observed above, the Petitioner does not have a right to be buried in the Cemetery because she is not resident in the Parish. Her petition does not have the support of the Team Rector. I have noted above that the absence of that support, on one view taken in the authorities, is conclusive and means that the Petition must fail. On another view, I can grant a Faculty but only if sufficiently exceptional circumstances made out. At the very least, this means that, as a starting-point, the Petitioner has an uphill struggle.
- 23. However, I have come to the view that even if I do have power to grant a Faculty without the consent of the Team Rector, I should not do so in this case. I have reached that conclusion for the following reasons:
 - (i) I entirely accept that the Petitioner has close connections with the Monastery, which is within the Parish. However, she does not have connections with the

Parish churches. She is not on the electoral roll and there is no suggestion that she has ever met the Team Rector or has any relationship with the church and congregation of St. Luke's, or that of All Saints'.

- (ii) The available space in the Cemetery is limited. There is no suggestion by either the Team Rector or the Petitioner that there has been any change in this regard since 2020, when the Team Rector estimated that space was available to parishioners for only another 20 years. It follows that, 5 years having elapsed, the Cemetery is likely within 15 years or so to be full with the remains of residents of the Parish, who have a right to burial there.
- (iii) It follows that if the Petitioner and her husband are permitted to reserve spaces in the Cemetery, and in due course to be buried there, they will effectively be taking spaces away from those who would otherwise be buried there by right, in the turn in which they die.
- (iv) With that in mind, the PCC has adopted a policy of allowing reservations only by those who have a right to be buried in the Cemetery or who have a connection with St. Luke's (for example, because they are on the electoral roll).
- (v) The PCC, and the Team Rector, have also made clear specifically that it is their policy not to support petitions for grave reservations where the only connection that the petitioner has with the area is with the Monastery. They seek to justify this not on the basis of any problem with the Monastery itself, but because of the frequency of the enquiries which they receive, coupled with the limited space available in the Cemetery. They say that, if they allowed those connected with the Monastery to reserve spaces in the Cemetery, all available space would soon be taken up by those with no other connection with the parish – meaning, inevitably, that those with a right to be buried in the Cemetery would be turned away.
- (vi) I consider that the PCC's policy is reasonable, coherent and justified in these circumstances. I would therefore need to be persuaded that there was something truly exceptional about the present case that justified my overriding that policy.
- (vii) What is more, the reason that the present Petition is brought is, in truth, because the Monastery's policy is not to permit burials in its own burial ground other than of its residents. I do not criticise that policy – I am sure that there are sensible and coherent reasons for it, not least the small size of the Monastery's burial ground – but it cannot be that the PCC is obliged, in effect,

to compensate for that policy, and to make room for those associated with the Monastery in preference to their own parishioners.

- (viii) I note also the Team Rector's statement that the Monastery, in fact, support the PCC's policy.
- (ix) I have considered the Petitioner's submissions with great care, and I am sympathetic to her position, given her obvious love for the Monastery and its community. However, I do not consider that the circumstances that she can show are sufficiently exceptional for me to grant a Faculty – even assuming that I have the power to do so.

Postscript

- 24. I recognise that the Petitioner will be very disappointed by my decision in this matter. As I have stated above, I do have considerable sympathy with her. However, I consider that fairness dictates that I cannot allow her wishes to override the entitlement of those who have a legal right to be buried in the Cemetery to be interred there in the order in which they die.
- 25. It is also necessary to bear in mind the Christian context in which applications of this kind are made. In that regard, I can do no better than quote from the judgment of Ockleton, Dep. Ch. in Re Highley Churchyard [2018] ECC Her 1:

"People have a great emotional attachment to the resting-places of the earthly remains of their loved ones. The Court's jurisdiction to consider petitions of this sort and to grant or refuse faculties for the reservation of gravespaces is part of its general jurisdiction over church property and its duty to ensure that all things are done decently and in order, in accordance with the law and with the exhortation of St Paul (1 Corinthians 14.40). The exercise of this jurisdiction by a church court must not under any circumstances be understood as implying that the church regards the place of burial or indeed the mode of disposing of the dead as of any importance in the sight of God. The reunion with our loved ones which we confidently expect is not dependent on our bodies being buried near theirs. The Christian's journey through death to life eternal is wholly unaffected by the fate or location of the body. 'I am persuaded that neither death, nor life, nor angels, nor principalities, nor powers, nor things present, nor things to come, nor height, nor depth, nor any other creature, shall be able to separate us from the love of God, which is in Christ Jesus our Lord' (Romans 8.38-39)."

Philippa Hopkins K.C.
Chancellor
29 September 2025