

In the Consistory Court of the Diocese of Coventry

Churchyard of St Botolph, Newbold-on-Avon

Denise Jean Blundell (Mrs)

Petitioner

Private Petition for reservation of a grave space

JUDGMENT

Facts

1. By a petition signed 9th September 2025 Mrs Blundell (born 1970) seeks reservation, for herself and her husband, of an earth grave space in the churchyard of St Botolph in Newbold-on-Avon. Mrs Blundell does not live in the Parish and is not on the electoral roll. Her cited connection is not with the Church itself, but from the fact that her Mother and Sister are both interred in the Churchyard
2. The petition identifies the present rate of burials as seven a year, and that only 25 grave spaces presently remain available. The population of Newbold-on-Avon itself is said to be 1,500, but when combined with the other area covered by the Benefice that figure becomes 6,000. I must decide whether to grant the application despite the space available in the Churchyard likely to be used up in less than four years.
3. The Petitioner identified the following reason for making the petition (punctuation and spelling as used by the Petitioner):

“My Mum and Sister are both buried in the churchyard. My sister was my soulmate. We spoke everyday, she was my life. We promised each other, we would wait for one another, and go to heaven together. I need to be in the

churchyard so she will find me, and we can be together again. My mental health and wellbeing are affected greatly, waiting to here [sic] if I can be there eventually. I cannot let her down. She is there resting, waiting for me to make the journey together.”

No evidence of any particular mental health condition or well-being issue has been provided.

4. The members of the PCC for the benefice considered the Petition at a meeting on 8th September 2025. The minutes state the following:

“Paul [the incumbent, Revd Paul Wilkinson] says it is legally possible to reserve a [grave] space but with little space left [in the churchyard] he has not been encouraging this, but he has been approached and, hearing the reasons behind the application, he feels he should make an exception in this case. It has to be approved by the PCC and then the Chancellor, who could refuse, but Paul happy to support the application. All agreed.”

5. (i) The Revd Paul Wilkinson did sign the petition on 9th September 2025 in the section where the consent of the Incumbent must be given. Below that signature the Incumbent and both Churchwardens signed the declaration:

“We the undersigned, being the Incumbent and Churchwardens of the Parish of Newbold-on-Avon in the Diocese of Coventry DO HEREBY CERTIFY that in our opinion, having regard to the average yearly number of burials in the churchyard of St Botolph, Newbold-on-Avon, aforesaid, the granting of a Faculty to the aforementioned Petitioner(s) will not be detrimental to the rights of the Parishioners”

(ii) Given the contents of paragraph 2 of this judgment, that declaration should never have been signed. It is abundantly clear that to grant this Faculty to a non-parishioner, and someone not on the electoral roll nor with any specific connection with the worshipping community, would be detrimental to the rights of Parishioners, as set out in the following description of the law that applies to reservation of grave spaces.

(iii) All Incumbents and Churchwardens should take care to read the declaration, and to understand the law pertaining to the situation, before signing a document for submission to the Court. What should happen in such circumstances as apply here is the incumbent and Churchwardens decline to make the formal declaration, but then put in writing any reason why they would, nonetheless, support the particular petition. Acting pragmatically, I shall regard the signed declaration in this case as being an indication that the Incumbent and Churchwardens support the petition.

6. The public notice has been displayed for the required period. No objections have arisen from the display of the public notice.

Law

7. Applications for grave space reservation are often made without difficulty. However, difficulty may arise where the churchyard has only a limited number of grave spaces remaining. In such cases, the relevant law was summarised by Chancellor Hodge KC in *Re St Mary, Haversham* [2025] ECC Oxf 2. That decision sets out the principles to be applied where, as in this case, there is a petition to reserve grave space, but only limited space remaining within the churchyard for future burials. The *St. Mary, Haversham* judgment concerned a churchyard where it was estimated that the remaining space would only be sufficient for the parish's needs for another 5 years, so longer than in the current case.
8. Referring back to his own decision in *Re St. Mary, Thame* [2022] ECC Oxf 2 [also at (2023) 25 Ecc LJ 114] Chancellor Hodge, KC, identified the following, non-exhaustive propositions:

“(1) The reservation of a grave space is entirely within the discretion of the consistory court, to be exercised having regard to the particular circumstances of the case.

(2) The court will be more inclined to grant a faculty to a petitioner with the right to be buried in the churchyard than to one without such an entitlement. Those who have such a right are the persons living within the parish, and those on the electoral roll of the parish church.

(3) The court may nevertheless grant a faculty to a petitioner with no right to be buried in the churchyard where they can demonstrate a personal, or a substantial family, connection to the church and/or its churchyard, or some other good and sufficient reason to be buried there.

(4) Where there is sufficient space within the churchyard, and the incumbent minister gives [his/her] consent, the court may well grant a faculty to such a petitioner, unless the Parochial Church Council have a policy of opposing the reservation of grave spaces.

(5) Such a policy cannot be conclusive, and it cannot remove the court's overarching discretion; but where the PCC have adopted a policy that is considered, reasonable and fair, the court will only be justified in departing from that policy in exceptional circumstances; and anyone seeking to reserve a grave space in the face of such a policy will need to show that their case is markedly out of the ordinary.

(6) Where, however, the remaining space within the churchyard is limited, then a faculty will not normally be granted, and the petitioner will have to demonstrate sufficient justification for the court to take the exceptional course of allowing a reservation in such circumstances, because of the risk that such a

reservation will prejudice the rights of those parishioners or worshippers who would otherwise be entitled to be buried in the churchyard.

(7) Even where such a justification is demonstrated, it will not usually be right to extend the duration of the faculty beyond the period for which the churchyard is likely to have space for burials, unless there are exceptional circumstances (including evidence of a particularly strong connection to the church and/or the churchyard) in favour of doing so.

(8) Should a faculty for a grave space reservation be granted for a limited duration, it remains open to the petitioner to apply for an extension of the period of its validity. Whether or not any extension is to be granted will depend upon the prevailing circumstances, including: (1) the petitioner's personal circumstances; (2) whether arrangements have been made to provide additional space for burials, whether by the acquisition of further land, or the re-use of parts of the churchyard, or otherwise; (3) the views of the incumbent minister; and (4) any current policy of the PCC towards the reservation of grave spaces."

8. In the *Re St Mary, Haversham* judgment Chancellor Hodge, KC, also referred to the decision of Chancellor Hill, KC, in *Re St. Leodegar, Hunston* [2023] ECC Chi 1. That case concerned an application to reserve 2 grave spaces in a churchyard that it was anticipated would be full within 5 years. The applicants in that case had long associations with the parish and the church. They had family graves within the churchyard, the support of the PCC and there were no objections.
9. It is of particular note that Chancellor Hill, KC, drew attention to the fact that the burden of proof lies on the petitioner to show, on the balance of probabilities, that there exists a sufficient justification to take the exceptional course of allowing a reservation when the remaining space in the churchyard is limited. (In the *Hunston* case he found there was none, despite the support of the PCC, and the absence of objections).
10. Further, in paragraph 13 of the *Hunston* judgment, Chancellor Hill, KC, made the following comments after he had declined to grant a faculty
"This decision should not be interpreted as a determination that neither Mr Martin nor Ms Lewis [is] worthy of burial in the churchyard. It is not a judgment on their character nor their nexus, and that of their families, with the parish of Hunston. They undoubtedly have very substantial links with the parish, even though neither may have the legal right of burial. Were they to die when one or more spaces remain unused, then I would expect the incumbent to exercise their discretion to permit their burial in the churchyard. However, it would be improper for a grave space to be reserved when so few remain, even had they enjoyed a right of burial. The remaining spaces must be filled by the burial of

individuals with a right of burial or a strong connection with the church in the order in which they die, until such time as the churchyard becomes full.”

11. I am also reminded of the decision in *Re St Peter, Hilton* [2024] ECC Yor 1 (Chancellor Lyndsey de Mestre, KC) where it was stated that to demonstrate exceptional circumstances a petitioner is required to show that their case is “*markedly out of the ordinary*”.

Decision

12. As has already been suggested above, to grant a faculty in this matter would risk offending against the sixth proposition put forward in *Re St Mary, Haversham*. I must ask myself, bearing in mind where the burden rests, whether the petitioner has demonstrated sufficient justification for the court to take the exceptional course of allowing a reservation in such circumstances. I bear in mind the support of the Incumbent, of the two Churchwardens, and of the members of the PCC. However, an agreement or series of discussions between siblings, or spouses, or life partners, or children with their parent(s), is very unlikely to be regarded as ‘*markedly out of the ordinary*’ so as to overturn the rights of parishioners to be buried in the Churchyard of their Parish. Such considerations as the limited space remaining in a churchyard should be borne in mind at the time a burial is arranged, if a later grave reservation is intended. I have to find that the Petitioner has not come near to satisfying the burden that exceptional circumstances apply to her petition. I should add that, even if exceptional circumstances did arise, I cannot see merit, for a petitioner in her mid-50s, to consider granting a faculty limited to only three years duration (as the Churchyard will likely be full by the end of the fourth year from now). A faculty will not be granted.
13. There will be no fee charged for the drafting of this judgment. However, the petitioner must still pay any costs or fees due to the Diocesan Registry arising from her petition.

Glyn Samuel
Chancellor
29th January 2026.