

IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD

BARLASTON: ST JOHN THE BAPTIST

ON THE PETITION OF MADELEINE WINNETT

JUDGMENT

- 1) Madeleine Winnett petitions seeking a faculty reserving a gravespace in the churchyard of St John the Baptist, Barlaston. The churchwardens and the Parochial Church Council have chosen not to become parties opponent but have set out their reasons for opposing the grant of this faculty.
- 2) I concluded that it was expedient for this petition to be determined on written representations. Miss. Winnett consented to that course. I have considered Miss. Winnett's initial submissions; the correspondence from the Parochial Church Council explaining its stance; and Miss. Winnett's further submissions in respect of that correspondence. Miss. Winnett's submissions are expressed with care in reasoned and moderate terms and are all the more powerful because of that.

The Approach of the Parochial Church Council.

- 3) In February 2017 the Parochial Church Council resolved unanimously that it would not support any further applications for the reservation of gravespaces in the churchyard. The Council took the view that at the current rate of interments the churchyard would be full by 2042 at the latest. It believes that the current rate of interments will continue and that it is likely to increase rather than decrease because of the age profile of the village and because of the fact that the churchyard in the adjoining parish no longer has any plots available for interments. It believes that those factors meant that the 2042 date is a longstop and that if the rate of interments increases the churchyard could be full before then. The Council said that the reservation of gravespaces would reduce the space available for interments and would create the risk that within about 20 years or perhaps a shorter period there would be no space to inter those who had not reserved gravespaces. In those circumstances the Council concluded that it

should oppose further applications for reservations in order “to be fair to all and to keep the churchyard open for as long as possible”.

Miss. Winnett’s Submissions.

- 4) Miss. Winnett explains that she fully understands the approach of the Parochial Church Council and the thinking behind it. However, she makes two points in favour of a faculty being granted in her case.
- 5) The first is that no advance notice was given of the change of policy on the part of the Parochial Church Council. Miss. Winnett contends that it would have been more appropriate if notice had been given of a date after which reservations would not be supported. Miss. Winnett says that this would have enabled those with strong connexions to the churchyard to make applications before the new policy came into effect.
- 6) The second point made by Miss. Winnett is to say that her personal circumstances and connexion with the churchyard are such that reservation is exceptionally justified in her case. Miss. Winnett is aged 54. She has lived for the last 51 years in one of the only two houses in the village which overlook the churchyard. Miss. Winnett’s mother was buried in the churchyard in May of 2017 and it is intended that in the course of time her father should be buried in the same plot as her mother. Miss. Winnett has stayed living at home caring for her aged parents. Mrs. Winnett was buried in a plot which can be seen from the family home and Miss. Winnett seeks to reserve the plot adjacent to it or, as a less-attractive alternative, a plot diagonally in front of it. In her submissions Miss. Winnett emphasises the proximity of her family home to the churchyard; the fact that her mother is buried in the churchyard; her frequent visits to her mother’s grave; her closeness to her parents; and the close and long-standing connexion between her home and the churchyard. Miss. Winnett says that her situation is unique and that “no one else in the village has such an emotional attachment to the place or has it so entrenched in their lives as I do.”

The Approach to be Taken.

- 7) In my decisions in *Re Blithfield St Leonard* (Lichfield 2014) and *Re Walsall Wood St John* (Lichfield 2015) I set out at some length the approach which the court

should take when a Parochial Church Council has adopted a policy of opposing the reservation of gravespaces. In short I explained that where a Church Council has adopted a policy of opposing reservations the court should consider whether that policy was adopted to thwart a particular application and whether the policy can be justified on reasonable grounds. However, provided that the policy was not adopted *ad hominem* and provided it can be justified on reasonable grounds then it should carry very considerable weight. Such a policy cannot be conclusive and the court retains discretion but exceptional circumstances will be needed to justify the court allowing a reservation in a churchyard where the Church Council has a policy of opposing reservation.

The Application of that Approach.

- 8) I am entirely satisfied that the Church Council's policy of opposing the reservation of gravespaces was adopted in good faith and that it was not a measure designed to exclude Miss. Winnett for some improper reason. I am also satisfied that it is justifiable on reasonable grounds. The Council has considered the amount of space available and the rate at which interments are likely to take place. The churchyard will not become full imminently but it will become full relatively soon. In those circumstances the decision that the limited number of spaces should be used by those who are first to die is a sensible and reasonable one. I note that in her submissions Miss. Winnett refers to the fact that she currently walks past reserved spaces to visit her mother's grave. She says that it galls her that her connexion with the church is closer than some of those with reserved spaces but that she is not guaranteed a place in the churchyard. That feeling of grievance is entirely understandable but it is a sadness which will be experienced by others, perhaps many others, if reservations are allowed to continue as the churchyard fills up. Accordingly, it shows the good sense of the approach adopted by the Parochial Church Council.

- 9) Miss. Winnett says that advance notice ought to have been given of the change of policy so that applications could have been made before the policy came into force. I am unable to accept that criticism of the Parochial Church Council's approach. If it was right that further reservations should be opposed it was right that such a policy should come into effect immediately. The grace period which

Miss. Winnett advocates would have run the risk of triggering a flurry of reservation applications and so of compounding the problem which the Council was addressing.

10) The Church Council's policy is a reasonable one. Accordingly, the question is whether Miss. Winnett's position is exceptional so as to justify the grant of a faculty notwithstanding the policy of the Church Council. I am entirely satisfied that Miss. Winnett has a long-standing and close connexion with the churchyard. It would be entirely fitting for her to be buried in the churchyard close to the plot containing the remains of her mother and in circumstances where she has lived alongside the churchyard for almost all her life. Although it will be fitting for Miss. Winnett to be buried in this churchyard if space remains when she dies I am not persuaded that her case is sufficiently exceptional as to justify reservation of a gravespace in the circumstances here. If a space is reserved for Miss. Winnett then that space will not be available for another person regardless of that person's connexion with the church or churchyard. I have to take account of the facts that Miss. Winnett is currently aged 54 and that the churchyard is likely to be full within 20 – 25 years. If a gravespace were to be reserved for Miss. Winnett then it may well be that there would be a period of 10 years or more between the time when others had to be turned away on the grounds that the churchyard is full and the time when Miss. Winnett comes to be buried. That would mean that there would be a period of time when others who would otherwise have a right to be buried in the churchyard were being turned away while an unused plot was being retained for Miss. Winnett. That would be undesirable and is precisely the kind of distress which the Parochial Church Council has sought to prevent.

11) Accordingly, the personal circumstances of Miss. Winnett and her connexions with the churchyard, strong though those connexions are, do not amount to exceptional circumstances justifying the grant of a faculty in these circumstances. The application is, therefore, refused.

STEPHEN EYRE
HIS HONOUR JUDGE EYRE QC
CHANCELLOR

29th December 2017