

## Re St Giles, Exhall

Court of Arches: Ellis Dean, 18 August 2020

[2020] EACC 1

*Permission to appeal*

The Court of Arches granted leave to appeal the above decision. The appeal had ‘real prospects of success’ in that, in the absence of objective evidence, the chancellor’s rationale that:

- i. The inscription would be ‘incomprehensible’ to almost all its readers in English-speaking Coventry or to persons who did not know the deceased;
- ii. The inscription was a ‘message which will be unintelligible to all but a small minority of readers’, which necessarily meant that the proposed inscription was ‘inappropriate’ unless translated; and
- iii. There would be a risk of the proposed words being regarded as ‘some form of slogan or that its inclusion without translation would of itself be seen as a political statement’

could have amounted to an unjustifiable exercise of his discretion and/or been unfair. The applicant would be free to address the court as to whether her rights under Articles 8, 9, 10 and 14 of the European Convention on Human Rights were engaged.

Further, there were compelling reasons for granting permission to appeal:

- i. The subject of non-English inscriptions on memorials has not been considered by the Arches Court or the Chancery Court;
- ii. England is a multi-ethnic and multi-cultural society. For a significant minority of families who choose burial in an Anglican churchyard, the English language may not be the natural or complete form of expression and/or of ceremonial expression;
- iii. The issue of non-English words on memorials is therefore likely to arise in future cases;
- iv. Questions of the approach to intelligibility and suitability of a Christian memorial in a Church of England churchyard are important matters of principle which the Court of Arches should consider, including in relation to the European Convention on Human Rights.

An amicus curiae would be appointed to enable the court to benefit from a full exposition of the arguments.

For the avoidance of doubt, the court agreed with the court below that subsequent comment in the press and elsewhere about a judgment was not a

compelling reason for granting permission to appeal and it had not been taken into account. [DW]

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### **Re Lambeth Cemetery**

Southwark Consistory Court: Petchey Ch, 14 May 2020

[2020] ECC Swk 3

*Exhumation – re-interment in same grave*

The petitioner sought a faculty for the temporary exhumation of the ashes of two family members from a family plot, to permit the burial of a further family member who had not wished to be cremated. The ashes would be re-interred in the same grave on the same day.

The court questioned whether the exceptionality test for exhumation set out in *re Blagdon Cemetery* was appropriate in circumstances where the proposal would ensure that the exhumed remains would be returned to the same grave. In any event, the circumstances were appropriate ones in which to make an exception, and a faculty would be issued. [DW]

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### **Re St Helen, Worcester**

Worcester Consistory Court: Mynors Ch, 18 May 2020

[2020] ECC Wor 2

*Development – new doorway replacing window*

This Grade II\* listed building had returned to church and community use in 2002, having last functioned as a place of worship in 1938. The petitioners sought a faculty for new level flooring with step-free access from outside, new lighting throughout and the removal of existing facilities, with the installation of a new kitchen and servery in the base of the tower, and toilet facilities on the site of an existing boiler house. These proposals were uncontroversial.

The petitioners also wished to open up a new church entrance onto the High Street with a full-height glazed door and decorative screen, in place of the existing nineteenth-century south window on the east façade. While accepting the principle of inserting a door in that location, the Victorian Society—with some support from the Society for the Protection of Ancient Buildings—objected to the total loss of the existing window and urged that