

## CASE NOTES

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Deputy Chancellor of the Dioceses of Salisbury and St Albans

### **Re St Clement, Terrington**

Ely Consistory Court: Leonard Ch, 28 November 2020

[2020] ECC Ely 3

*Grave space reservations – statutory obligation to provide graves – anticipated closure*

The court considered four petitions for the reservation of grave spaces in a churchyard which was scheduled to be closed in April 2021. The petitions were supported by the incumbent and the Parochial Church Council (PCC). However, the court was concerned that reservations might use up remaining spaces before the churchyard was closed, which ran the risk of ignoring the obligation under section 88 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 to provide spaces for the interment of those entitled to be buried in the churchyard. There was also a danger that this approach would advantage those who could afford to pay the fees for a reservation over those with a right of burial who could not do so.

The court considered *Re West Pennard Churchyard* [1991] 4 All ER 125, in which Newsom Ch set out the principles affecting the grant of such faculties, and emphasised the importance of the risk that such a grant would prevent a parishioner with a right of burial from exercising that right. Following this review of the authorities, the court granted faculties in two of the cases, where the petitioners had strong connections with the church and the parish; it refused the other two, where the petitioners were younger and the main basis of the petitions was the presence of close relatives in the churchyard.

The court further indicated that it would be appropriate to postpone the application for closure until the churchyard was full, noting that section 88 of the 2018 Measure could not require burials to take place where there was no room, even if the PCC was still awaiting an order in council to close the churchyard. This would ensure that all available spaces were used. [DW]

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