

The petitioner submitted that in such a case, the court should exercise its jurisdiction by applying the test that would have been applied by the Secretary of State in the ordinary course of an exhumation from unconsecrated land: that is, that it should be granted as a matter of course, subject to the consent of the landowner (here, the incumbent). The court disagreed, concluding that the involvement of the then-incumbent in the original interment brought about the presumption of permanence on which the principles in *Re Blagdon Cemetery* were based.

Applying the *Re Blagdon* principles, the court concluded that there had been a misunderstanding as to the status of the garden at the time of interment; the petition had been issued promptly on discovering the misunderstanding; and exhumation would permit the creation of a family grave. A faculty would, therefore, issue for the exhumation as sought. If exhumation were not practically possible, the faculty would permit in the alternative the interment of the petitioner's mother's ashes alongside those of his father.

doi:10.1017/S0956618X2400019X

## Re Removal of a Commemorative Plaque for Safeguarding Reasons

Oxford Consistory Court: Hodge Ch, 8 October 2023  
[2023] ECC Oxf 9  
*Removal of commemorative plaque*

Naomi Gyane

Barrister, Pump Court Chambers, London, UK

This unopposed petition was for the removal of a commemorative plaque, installed without a faculty, on the windowsill of the south wall of the nave of the Grade II\* listed church. In order to protect the privacy of any person affected by the judgment, the names of the church and the people involved were anonymised.

The plaque had been installed, without a faculty, to commemorate a previous (and by then deceased) churchwarden's years of service to the church. The PCC were alerted years later that the individual concerned had been convicted of sexual abuse in the 1950s. The individual's children were informed of the faculty application. They had been unaware of their father's conviction and were understandably upset. They did not want the plaque back and did not withhold consent to the faculty.

The court had regard to the Guidance on Contested Heritage issued by the Church Buildings Council and the Cathedrals Fabric Commission for England in 2011. The Guidance emphasised that it was of particular importance to the church that its buildings should be welcoming to all, with symbols of injustice and sources of pain being acknowledged and addressed.

The PCC had queried whether a faculty to remove the plaque was required as it had been installed without permission. Although the plaque had been introduced without a faculty, it was nevertheless now subject to the faculty jurisdiction, and a faculty would be required for its removal. Applying *Re St Alkmund, Duffield*, the court was satisfied that the proposal to remove the plaque caused no harm to the significance of the church as a Grade II\* listed building. The petitioner had shown a sufficiently good reason for the removal of the commemorative plaque to overcome the ordinary presumption in favour of things as they stand.

doi:10.1017/S0956618X24000206

## Re St James, Piccadilly

London Consistory Court: Etherington Ch,  
16 October 2023  
[2023] ECC Lon 3  
*Erection of a new building – thatched roof*

Naomi Gyane

Barrister, Pump Court Chambers, London, UK

The petitioners sought permission to carry out major re-ordering works including the erection of a new thatched pavilion building. Many aspects of the works, including the creation of the single storey thatched building, had also been the subject of a successful planning application to the local planning authority.

The Society for the Protection of Ancient Buildings (SPAB) objected to the proposal to use thatch for the newly created building. Although it declined to become a party opponent, its objections were that:

- i. The use of thatch on the garden building would adversely affect the character of the churchyard or church;
- ii. The thatch may present a fire risk and had been inadequately assessed; and
- iii. Indigenous thatch may be difficult or impossible to source and it may require replacing in less than 30 years.