

**APPLICATION TO REMOVE THE  
LEGAL EFFECTS OF CONSECRATION  
ON PART OF CALDESTONES CEMETERY, WHALLEY,  
DIOCESE OF BLACKBURN.**

1. This is an application to me as Bishop of Blackburn by the Archdeacon of Blackburn under section 92 of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 to remove the legal effects on consecration on parts of the Calderstones Cemetery, Whalley in the Diocese of Blackburn. The Application is **Annex A** to this decision.
  
2. The Cemetery was consecrated by the Bishop of Burnley on 30<sup>th</sup> June 1916 from which date it became subject to the faculty jurisdiction of the Consistory Court. Part was to be used for the burial of soldiers dying in the Queen Mary Military Hospital and part for 'the burial of the lunatics dying in the Whalley County Lunatic Asylum and of the officers and servants belonging thereto'. This application relates to part of the second area, that intended for residents and staff of the Asylum.
  
3. After the closure of the Calderstones Hospital (as the Asylum became known) I am told that the Cemetery was sold by the Regional Health Authority in October 2000 to a private developer. That developer obtained planning permission for a crematorium and began preparatory work by removing and disposing of most of the gravestones. This was done illegally without a faculty from the Blackburn Consistory Court.
  
4. It is worth noting that there was and is no power of the Consistory Court to make a restoration order to restore those illegally removed headstones and other memorials. This is because under The Ecclesiastical Jurisdiction and Care of Churches Measure 2018 section 72 (and its predecessors) restoration orders can only be made 'in relation to a church or churchyard'. This does not extend to local authority or other cemeteries.
  
5. I am told that the Cemetery is now owned by Buildings of Remembrance International Ltd which wishes to build a Crematorium on the site. This company has obtained planning permission for such a building and associated car parks and other works on land in which it believes there are no interred bodies or ashes.
  
6. This application asks me to remove the legal effects of consecration on those parts of the Cemetery not coloured pink on the plan. It is intended that those areas coloured pink are to remain consecrated and subject to the jurisdiction of the Consistory Court.
  
7. Public notice of the application was given on 30<sup>th</sup> March 2019 inviting representations within 28 days. I have considered all representations made, even if they were received after the 28 day period had expired.

8. I have received nearly 100 objections, but I do not intend to refer to them all individually as many contain common themes. Some are from relatives of those buried in the Cemetery. Others are from those concerned in the local area and further afield.
9. Many objectors point out that the act of consecration is intended to be a permanent act for all time. The words in the sentence of consecration are 'to set apart and separate [the plot]...from all common and profane uses whatsoever' and 'we hereby declare that [the plot] shall so remain set apart separated consecrated and dedicated by this our definitive sentence and final decree which we read and promulge by these presents'.
10. Many objectors make the point that those with mental illness were badly treated in past generations and we should not compound that bad treatment by disturbing their last resting places.
11. The Friends of Calderstone Cemetery have sent a long and detailed objection and this is included as **Annex B** to this decision. This is supplemented by a letter from the Chairperson of the Friends, Mr Dennis Buckley dated 2<sup>nd</sup> May 2019 which is **Annex C**.
12. I have also been assisted by a letter from Dr Nigel Ingham of the Open University. This is included as **Annex D** to my decision.
13. By section 92 of the 2018 Measure I must be satisfied that no purpose will be served by those parts not coloured pink on the plan remaining subject to the legal effects of consecration.
14. This procedure is normally used when all human remains have been removed from a burial site under an order of the Consistory Court after a faculty application. The Consistory Court will have had the benefit of argument (and possibly oral evidence) of the need for the removal of the bodies. If it grants the faculty for removal then, once the human remains are removed, the land in question remains consecrated but to no purpose. The legal effects of consecration can then be removed so that some project of public benefit such as a road can be built.
15. But this case is different. Here the burials are to remain in situ and the land round them is to have the legal effects of consecration removed. That might be acceptable if it is *certain* that it is known where all the burials are. The Archdeacon withdrew his first application because evidence came to light of further burials.
16. Mr Buckley's letter of 2<sup>nd</sup> May raises the possibility that there may be a further 200 or 300 interments from the Hospital which are unaccounted for. Whilst he fairly says that they many have been interred "off site" it is hard to see why this would have happened.
17. Dr Ingham's letter of 29<sup>th</sup> April also raises the credible possibility of there being further interments both in the Garden of Remembrance and elsewhere, which were not identified by the two kinds of SUMO Survey

18. I have to take those possibilities seriously. If it can be said that there *may* be further burials whose whereabouts are unknown then it cannot be said that no purpose will be served by keeping the legal effects of consecration in place. The land was consecrated so that the remains buried in it would remain undisturbed after Christian burial. This cannot be guaranteed if I remove the legal effects of consecration.

19. Having come to that conclusion I must reject the application. The fact that I have done so now does not prevent a further application being made in the future with new evidence. Whilst not wishing to pre-judge such an application, it would be helpful if in any such future application addressed the concerns of the Friends listed in the Summary on page 10 of their objection. Currently, I am without information on the proposed routes of drains and utilities, on whether the recently created road over the garden of remembrance will be re-sited and in this application there is no requirement for work to cease immediately, if remains are discovered during ground works.

09 June 2019

The Rt Revd Julian Henderson  
Bishop of Blackburn