and white. 'Local cemetery rules' existed in relation to the churchyard, but these had not been approved by the chancellor. They purported to permit memorials which were, in some respects, not permitted by the diocesan regulations; in particular, they purported to permit the use of polished stone. It was estimated that some 80 per cent of the memorials in this graveyard fell outside the regulations, being of polished stone. The team rector, archdeacon and Diocesan Advisory Committee supported the application on pragmatic grounds. However, the Parochial Church Council (PCC) opposed it as undermining their efforts to resist applications for memorials outside the regulations.

The deputy chancellor considered the judgment in *Re St Saviour, Ringley* [2018] ECC Man 3, which set out the principles to apply in cases such as this. Good or substantial reason was required before a memorial falling outside the diocesan regulations was permitted; this was a matter of justice to other families who had put aside their personal preferences and accepted a memorial conforming to the regulations. Circumstances which might provide a sufficient reason included where there were already so many similar examples in the churchyard that it would be unconscionable to refuse consent for one more. In the present case, the deputy chancellor acknowledged that few of the existing memorials in the graveyard complied fully with the regulations. However, the proposed memorial was a far more substantial departure from the regulations than any other memorial there, and would be likely to overshadow its neighbours. The deputy chancellor declined to grant the faculty sought. Nevertheless, the regulations had been so widely ignored in this churchyard that the deputy chancellor would be prepared to permit a memorial that departed from the regulations in two respects: the use of polished stone and the inclusion of a monochrome motif or insignia would be permitted. The incumbent and PCC were encouraged to draw up a set of parochial churchyard rules to be submitted for the chancellor's approval as soon as possible. [David Willink]

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Re Middlewich Cemetery
Chester Consistory Court: Turner Ch, 4 February 2019
[2019] ECC Chr 1
Exhumation

The petitioner owned the exclusive burial rights to Plot 244A in Middlewich Cemetery. The cremated remains of various family members occupied the plot, including those of a number who had died in infancy; that included the remains of the parties opponent's brother and the petitioner's twin brother.

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In 2016 the cremated remains of the parties opponent's parents were interred in the plot without the petitioner's consent, rendering the plot full. When this was discovered the petitioner sought a faculty permitting the exhumation of the parties opponent's parents' remains on the ground that they had been interred in breach of his legal rights: that burial rendered it no longer possible that his remains could, as he had always intended, be interred with those of his twin brother.

The chancellor considered the case law in the area, in particular the decisions in *Re Twyford Cemetery* [2015] PTSR Digest D 47 and *Re Fairmile Cemetery* [2017] ECC Oxf 2. In this case, the petitioner's legal right to determine who was buried in the plot was of importance, but did not supersede the requirements of Anglican doctrine and the chancellor's discretion. Whatever decision was reached would cause distress to one side or the other; it was impossible to evaluate the respective distress. Although the breach of the petitioner's exclusive right to burial and the mistake of the burial authority in permitting the interment was capable of amounting to a good reason justifying an exception to the norm of permanence of burial, the chancellor's appraisal of the overall circumstances of the case, including the intentions of the deceased and the presence of other relevant existing burials in the plot, meant that the petitioner had not discharged the burden resting upon him to show that a faculty should be granted. The petition was consequently dismissed. [RA]

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Re St Peter and St Paul, Burton Pidsea
York Consistory Court: Collier Ch, 8 February 2019
[2019] ECC Yor 4
Telecommunications equipment – transfer of licence

In July 2017 a faculty had been granted permitting the parish to enter into a licence agreement with NET Coverage Solutions Ltd (NCS) for a term of 20 years in respect of telecommunications apparatus to be installed in the tower of the church. The terms of the licence required the permission of the court in order to assign the licence. NCS now sought permission to assign the licence to Shared Access Ltd. The chancellor outlined the developments in the law and practice of installing telecommunications equipment in church buildings, including the impact of the new Electronic Communications Code (ECC) under the Digital Economy Act 2017. He expressed concerns about the code rights available to those wholesale infrastructure providers (WIPs) that registered with OFCOM. It was said that Shared Access had no intention to apply for code rights under the ECC.

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