

Funeral Pyres

Members may be aware of recent appeal case concerning the legality of cremation on funeral pyres and the judgement that this practice would be lawful under the Cremation Act 1902.

The judge discussed the term ‘building’ in his deliberations and quoted the case of Windsor Hotel (Newquay) Ltd v Allan (The Times 2nd July 1980) where he stated ‘Nonetheless, it is not without interest to note that in this court a reasonably substantial barbeque has been held to be a “building” in the context of a restrictive covenant’. (Whilst the afore mentioned words might not seem appropriate to those working at crematoria the Judge’s analogy is relevant).

More importantly members should note that Clause 11 of the judgement clearly states ‘Difficulties which may be thrown up by planning and public health legislation do not fall for consideration at this stage’. From this statement it is clear that the Judge came to his conclusion in respect of the Cremation Act 1902 only.

It would follow that further judgement(s) will be required in respect of modern planning and environmental legislation before any open air crematorium could be established. In light of the requirements placed on cremation authorities and companies in respect of compliance with current environmental legislation it is likely that challenges made to such legislation would be more difficult to win.

The Institute will raise concerns on behalf of Corporate and Professional members should any application be made to establish an open air crematorium.

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