

ELIZABETH II



1973 CHAPTER iv

An Act to authorise the use of the burial ground attached to or comprised in the Unitarian Chapel situate at Friar Gate, in the county borough of Derby, for building or otherwise; and for purposes incidental thereto. [18th April 1973]

WHEREAS—

(1) The existing Unitarian Chapel in the county borough of Derby known as the Friar Gate Chapel (hereinafter referred to as "the chapel") was originally constructed in or about the year 1698 on a site having a frontage to Friar Gate in the said borough:

(2) There are schoolrooms originally constructed in or about the year 1862 adjacent to the chapel and there is land appurtenant to the chapel (which land and the sites of the chapel and the said schoolrooms are described in the Schedule to this Act and are together in this Act referred to as "the chapel land"):

(3) The freehold of the chapel land is vested in the North Midland Presbyterian and Unitarian Association (Incorporated) (hereinafter called "the Association") as custodian trustee:

(4) The chapel land, or some part thereof, was formerly used as a burial ground for the interment of human remains, but by Order in Council of Her late Majesty Queen Victoria dated 18th October, 1854, burials in that burial ground were discontinued:

(5) It is expedient that the chapel land should be freed from all restrictions which may affect the same by reason of the chapel land or any part thereof being a disused burial ground and that the Association and their successors in title be empowered to use, deal with or dispose of the chapel land or any part thereof for building or other purposes:

(6) It is expedient that the provisions contained in this Act with respect to the removal from the chapel land of any human remains interred therein should be enacted:

(7) It is expedient that the other provisions contained in this Act should be enacted:

(8) The objects of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the Derby Friar Gate Chapel Act 1973.

Interpretation.

2.—(1) In this Act unless the subject or context otherwise requires—

"the Association" means the North Midland Presbyterian and Unitarian Association (Incorporated);

"the borough" means the county borough of Derby;

"the chapel" means the Unitarian Chapel situate at Friar Gate in the borough and known as the Friar Gate Chapel;

"the chapel land" means the land described in the Schedule to this Act;

“enactment” includes an enactment in this Act or in any general or local Act and any order, byelaw, rule or regulation made under any Act;

“the owner” means the person for the time being receiving the rack-rent of the chapel land, whether on his own account or as agent or trustee for any other person, or who would so receive the same if the chapel land were let at a rack-rent.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any enactment, including this Act.

3. As from the passing of this Act the chapel land shall be freed and discharged from all trusts, uses, obligations, disabilities and restrictions whatsoever which immediately before the passing thereof attached thereto by reason of the chapel land or any part thereof being a disused burial ground and the provisions of the Disused Burial Grounds Act 1884 shall cease to apply to the chapel land.

Discharge of trusts and restrictions affecting chapel land. 1884 c. 72.

4. Notwithstanding anything contained in any enactment, but subject to the provisions of this Act, it shall be lawful at any time after the passing of this Act to use, deal with or dispose of the chapel land, or any part thereof, for any purpose in like manner as if no part thereof had ever been used or set apart for the interment of human remains.

Power to use chapel land for other purposes.

5.—(1) Before the owner begins to use any part of the chapel land for any purpose likely to involve the disturbance of human remains, he shall give notice of his intention to remove, or cause to be removed, from that part of the chapel land the remains of any deceased person found interred therein by publishing a notice once in each of two successive weeks in a newspaper circulating in the borough with an interval between publications of not less than six days, and shall display a like notice in a conspicuous place upon or near to the principal door of the chapel and such notice shall have embodied in it the substance of the following provisions of this section.

Removal of human remains from chapel land.

(2) At any time within two months after the first publication of such notice, any person who is a personal representative or relative of any deceased person whose remains are interred in that part of the chapel land may give notice in writing to the owner of his

intention to undertake the removal of such remains, and thereupon if such remains can be identified he shall be at liberty to cause such remains to be removed to and re-interred in any burial ground or cemetery in which burials may legally take place (but in the case of a churchyard only with the consent of the incumbent of the benefice concerned), or to be removed to and cremated in any crematorium, and forthwith after such re-interment or cremation shall provide to the owner a certificate for the purpose of enabling the owner to comply with the provisions of subsection (6) of this section.

(3) (a) If any person giving such notice as aforesaid fails to satisfy the owner that he is such personal representative or relative as he claims to be, the question shall be determined on the application of either party by the county court, and the court shall have power to make an order specifying who shall remove the remains.

(b) Any jurisdiction or power conferred on the county court by this subsection may be exercised by the registrar of the court.

(4) The expenses of such removal and re-interment or cremation (not exceeding in respect of remains removed from any one grave the sum of seventy-five pounds) shall be defrayed by the owner, such sum to be apportioned if necessary equally according to the number of remains in the grave.

(5) If—

(a) within the aforesaid period of two months no such notice as aforesaid shall have been given to the owner in respect of the remains in any grave; or

(b) within two months after such notice has been given no application has been made under subsection (3) of this section and the person who gave the notice fails to remove the remains; or

(c) within two months after any order is made by the county court under the said subsection any person other than the owner specified in the order fails to remove the remains; or

(d) the remains to which the notice relates cannot be identified;

the owner shall be at liberty to remove the remains of the deceased person and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place, or removed to

and cremated in such crematorium, as the owner thinks suitable for the purpose, but in the case of interment in a churchyard, the previous consent of the incumbent of the benefice concerned shall be required.

(6) Upon any removal of remains from the chapel land a certificate of removal and re-interment or cremation shall be sent to the Registrar General by the owner giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated, showing the particulars of each removal separately.

(7) (a) Subject to the provisions of this subsection, any monument or tombstone relating to the remains of a deceased person removed under this section shall, at the expense of the owner, be removed to and re-erected at the place of re-interment or cremation of such remains or at such place as the county court may direct on the application (if any) of such personal representative or relative as aforesaid, or, failing such application, on the application of the owner.

(b) The amount required to be paid by the owner in respect of the cost of removal and re-erection or disposal of any monument or tombstone under this subsection by or at the request of the said personal representative or relative shall not exceed the sum of twenty pounds.

(c) The owner shall cause a record to be made of each monument and tombstone taken from the chapel land under this section containing—

- (i) a copy of the inscription thereon; and
- (ii) if it is intended to preserve the monument or tombstone, a statement naming the place, if any, where it has been re-erected;

and shall deposit a copy of the record with the Registrar General.

(d) Where the owner considers that, by reason of its illegible or ruinous condition, a monument or tombstone removed under this subsection is unsuitable for re-erection, the owner may dispose of the monument or tombstone in such manner as he thinks fit.

(8) The removal of the remains of any deceased person under this section shall be carried out in accordance with any directions that may be given by the Secretary of State.

6. Section 289 of the Town and Country Planning Act 1971 (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that

Saving for Town and Country Planning Act. 1971 c. 78.

provision is made by any local Act passed before or during the Session 10 & 11 Geo. 6 for authorisation or regulation of development of the land) shall apply to this Act as if it had been passed during that session; and accordingly the Town and Country Planning Act 1971 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Act.

1971 c. 78.

Costs of Act.

7. All costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing this Act or otherwise in relation thereto shall be paid by the Association.

SCHEDULE

Section 2.

DESCRIPTION OF CHAPEL LAND

All that piece of land in the borough containing an area of 585.3 square metres or thereabouts, having a frontage to Friar Gate of 18.44 metres or thereabouts and an overall depth of 32.00 metres or thereabouts and comprising the site of the chapel and of adjacent schoolrooms and land appurtenant thereto.



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Derby Friar Gate Chapel Act 1973

CHAPTER iv

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SCHEDULE—Description of chapel land.

