

IN THE CONSISTORY COURT OF THE DIOCESE OF ROCHESTER

Re: HOO: ST WERBURGH

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J U D G M E N T

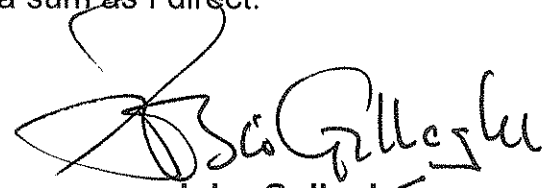
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1. By a petition presented on 5<sup>th</sup> May 2017, the petitioners, being the Incumbent, the Reverend John Ernest Smith, and the Churchwardens, Mr Michael Hollands and Mr David Savage, of the Parish Church of St Werburgh, Hoo, Kent, applied for a faculty for approval of a local scheme to vary the Churchyard Regulations so as to allow for the introduction of memorials with stone surrounds in the area of the churchyard marked on Drawing No 85/005, dated 14<sup>th</sup> August 1986, in accordance with a draft Scheme dated 8<sup>th</sup> July 2016, and a detailed plan of the designated area.
  
2. I have read the draft Scheme for which approval is sought. It highlights the problems that the P.C.C. have faced over a number of years with people erecting memorials in accordance with the Guidelines, but then later, adding surrounds "of varying quality" from the local nursery. This has meant that there is a danger of a de facto precedent being set for breaches of the Guidelines, which have become increasingly difficult to enforce despite all the efforts of the Incumbent and the PCC. In 30<sup>th</sup> October 2014, when dealing with another matter I suggested that the P.C.C. might consider drawing up a scheme for my consideration for what they found acceptable either for the whole churchyard, or for some designated part thereof. It is against this background that the petitioners have petitioned in effect to regularise and clarify the position. There are no costs implications in what is sought. The D.A.C., in their Notification of Advice dated 5<sup>th</sup> May 2017, did not object to the proposals, subject to some rewording. They also recommended that no kerbs or makeshift surround should be permitted in the proposed churchyard extension, which as yet remains unconsecrated. Finally, the D.A.C. suggested that the P.C.C. ask or require families to sign a copy of a notice to confirm that they will comply with the Churchyard Regulations. The suggestions are all of practical merit.

3. On 12<sup>th</sup> February 2017, I indicated that I was prepared to deal with the petition on the basis of written submissions, provided that the petitioners agreed in writing to this course being adopted. This, as I understand it, they have done. Having reconsidered the matter, I am of the view that it is expedient and appropriate for me to deal with the petition on written submissions.
4. The P.C.C., at a meeting on 25<sup>th</sup> November 2015, unanimously resolved to approve the proposals. There were 11 members present and voting. There have been no objections to the public notices displayed as required under **Part 6 Faculty Jurisdiction Rules 2015**.
5. The reasons for limitations upon what may be permitted in a churchyard are essentially threefold, the first of which is theological, for which see **Re St John the Baptist, Adel 2016 ECC Lee 8**. Theological considerations do not arise in the instant case. The second reason is aesthetic, and the third, which sometimes is linked to the second, is practical, relating to maintenance, upkeep and the like, the burden of which normally falls on the P.C.C. Essentially I am concerned with aesthetic and practical issues.
6. Insofar as practicality is concerned, the P.C.C. must be taken to have considered the issue since they have approved the proposals. Moreover, it is clear that the petition is aimed at clarifying the position, and so making a maintenance scheme easier to implement and maintain.
7. As far as aesthetics are concerned, churchyards are Christian burial grounds for local communities, not just for the present but for generations to come. They also, of course, represent Christian witness and hope of generations past. Bearing all this in mind it is important that the overall appearance of a churchyard is appropriate and not discordant. At this juncture there has to be taken into account pastoral considerations. I am satisfied that what is sought to be done is not in any way aesthetically offensive, quite the reverse. Furthermore it is likely to resolve pastoral issues, by providing a new set of ground rules, which will be easier to enforce.
8. Thus, for the reasons given above I accept the arguments of the petitioners. I am satisfied that the proposed works are required and are appropriate. In the premises, subject to what I have to say below, I direct that faculty issue. There shall be a condition

attached that the recommendations contained in the Notification of Advice from the D.A.C. be implemented. The petitioners should arrange for the proposed scheme to be redrafted where appropriate to reflect these recommendations. The redrafted scheme should include reference to the fact that families will be required to sign a notice confirming that they will comply with the Churchyard Regulations. Once finalised the proposed scheme should be resubmitted to me for formal approval.

9. The petitioners must pay the Registry and Court costs of and incidental to the petition, in the normal way. There shall be a correspondence fee to the Registrar in a sum as I direct.

A handwritten signature in black ink, appearing to read 'John Gallagher', written in a cursive style.

John Gallagher  
Chancellor

15 August 2017