

IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY

ST LAURENCE: ANSLEY

JUDGMENT

- 1) The church of St. Laurence in Ansley has a grade II* listing. It has Norman origins and underwent a substantial Victorian restoration. The church is in a relatively isolated location. It is not by any means in the “back of beyond” but it is on the edge of the small settlement of Ansley and alongside open countryside.
- 2) Alongside the north wall of the church there is an Area for the Burial of Cremated Remains. This consists of a number of rows of memorials. A large number of these take the form of wedge-shaped memorials fixed on stone slabs. The curate in charge and the churchwardens petition with the support of the Parochial Church Council for a faculty allowing the introduction of a series of sandstone slabs into the Area for the Burial of Cremated Remains. The intention is that these will mark out and occupy the spaces on to which future memorials are to be positioned. The aim is to address the problem of memorials being introduced into the churchyard on incorrectly-sized bases as described below. The Diocesan Advisory Committee has not recommended approval saying that the proposed works would have an unusual appearance and that the problem could be better addressed in other ways.

The Procedural History.

- 3) I concluded that it was expedient to determine this matter on the basis of written representations. The Petitioners consented to that course and provided short submissions supplementing the material which had accompanied the Petition. I made an unaccompanied site visit. On that visit it was apparent to me that the space available in the Area for the Burial of Cremated Remains is limited and the memorials are placed close to each other with there being little space between the rows of memorials and no real scope for spacing the rows more widely.

The Submissions.

- 4) The problem which the Petitioners seek to address is that of memorial masons installing bases of an incorrect size together with memorials on those bases. The Area for the Burial of Cremated Remains is designed to operate on the footing of the wedge memorials being on bases measuring 18” by 18”. The incorrectly sized bases are larger than that approved size. Although the non-conforming bases are only a matter of a few inches bigger than they should be this nonetheless has the consequence of the base for one memorial extending into the space which would otherwise be occupied by the next row of memorials. This in turn dislocates the appearance of the Area for the Burial of Cremated Remains causing an unevenness of the rows. It was readily apparent on my site visit that an over-large base slab intruding into the space for the next row of memorials could affect the appearance of the Area for the Burial of Cremated Remains as a whole. The petition has been triggered by a particular instance of this practice and the Petitioners say that the attempts to remedy that have taken up considerable amounts of the time of the area dean and the churchwardens and have led to pastoral difficulties with the bereaved family on whose behalf the memorial was installed. The petitioners say that there have been at least two similar instances in the past. In the light of that they assert there are considerable difficulties which can result from the installation of incorrectly sized base slabs. The difficulties include the time and energy taken up in attempting to remedy matters but also the scope for there being an impact on the church’s pastoral work with the bereaved. In addition the Petitioners point out the distress caused to others by the impact on the appearance of the Area for the Burial of Cremated Remains and by the feeling that rules which others have accepted are being disregarded.
- 5) The Petitioners see the proposal as a way of preventing further such difficulties by having in place the slabs on to which memorials can be positioned thus removing in advance the risk of an oversized base being installed.
- 6) The Diocesan Advisory Committee did not recommend approval. The Committee felt that the row of base slabs would look “strange” and also did not believe that the proposal would necessarily succeed in stopping the installation of further

incorrectly sized bases or memorials. It commented that the Parochial Church Council should “reinforce with the stonemasons their rules on appropriate stones and save the money on the slabs.”

- 7) The Petitioners have responded to the Diocesan Advisory Committee's comments by pointing to the practical difficulties of enforcing the rules in advance. They place emphasis on the rural setting of the church and the difficulty of checking in advance that a memorial is to be placed on a base of the correct size. Thus the latest non-compliant base was installed following permission given by the area dean in an interregnum in circumstances where the mason seeking permission had not specified the size proposed and where permission and installation occurred at speed to achieve the pastorally beneficial outcome of a memorial being in place by Christmas. As to expense the Petitioners express the view that “the cost of a few slabs will be well worth every penny to ensure that there is no recurrence of the distress that has been caused by overlapping.”

Assessment.

- 8) The presence of a number of bare sandstone slabs amongst the memorials in the Area for the Burial of Cremated Remains will present a somewhat unusual image. However, it cannot be said to be one which will be in any way offensive nor will it detract to any material degree from the general appearance of the Area for the Burial of Cremated Remains. Moreover, it will not, a point the Diocesan Advisory Committee has confirmed, have any adverse impact on the appearance or special significance of this grade II* church.
- 9) There is considerable force in the point made by the Diocesan Advisory Committee that the best course for the incumbent and the Parochial Church Council would be to ensure in advance that memorial masons were made aware of the approved sizes for base slabs when permission is given for the installation of memorials. This would minimise the risk of incorrectly sized slabs being installed and mean that there could be no legitimate argument against removal of an incorrectly sized base slab if one were subsequently to be installed. There is logical force in that stance. However, I have to take account of the practicalities and of the burdens on those having responsibility for this churchyard. The church is in a rural setting with a small but faithful worshipping community and with the

incumbent and churchwardens having the considerable burdens (albeit also the privileges and opportunities) of caring for a highly listed church with an open churchyard. In that regard I readily accept the point made by the Petitioners that having to put matters right after an incorrectly sized slab has been installed can take up a disproportionate amount of time and energy even in cases where there is no legitimate scope for a denial of fault on the part of the mason who installed an over-large slab. This is coupled with the risk of there being harm to the pastoral relationship with a bereaved family and of distress being suffered by others discomforted by an impact on the appearance of the Area for the Burial of Cremated Remains.

- 10) I must give considerable weight to the experience and expertise of the Diocesan Advisory Committee. However, I must also give considerable weight to the assessments made by incumbents and church councils as to matters of local need and practicalities. Not only are incumbents and church councils better placed than the court to assess the needs of a particular community and the practicalities of particular arrangements but it is they who will have to bear the burden of any proposed alternative course. That means in this case I must attach real importance to the Petitioners' assessment of the problem they have to face and of the burden involved in remedying it. An assessment made by an incumbent and church council cannot be determinative of my decision but I must hesitate before refusing a proposal which they believe will address a real problem particularly if such a refusal has the potential to require further work on the part of those persons. As to the cost of the works it is well-established that the court should regard the Parochial Church Council which is the elected representative body of the parishioners as best placed to determine how its funds should be spent and that it will only be in the most exceptional case that it can be said that a faculty should be refused on the basis that the proposed works are not a proper or not the best use of church funds. Here the cost of the works is estimated at £50 and although I suspect that might be a slightly-optimistic estimate for the cost of purchase and installation of these slabs it cannot conceivably be said that this is an improper or extravagant use of the funds of the Parochial Church Council.

- 11) In the light of those considerations my conclusions can be stated shortly. I accept that there is a genuine problem to be addressed. I also accept that remedial action after incorrectly sized slabs are installed can involve a disproportionate amount of time and energy and can run the risk of jeopardizing pastoral work with the bereaved. In those circumstances I have no hesitation in approving the proposed works which involve prevention of the problem at the price of a very modest expenditure in a case where those works will create a somewhat unusual appearance but one which is neither disfiguring nor inappropriate.
- 12) It follows that the faculty sought will be granted.

STEPHEN EYRE

HIS HONOUR JUDGE EYRE QC

CHANCELLOR

11th August 2019