

**IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY**

C2016/5545

**HILLMORTON: ST JOHN THE BAPTIST**

**JUDGMENT**

- 1) St. John the Baptist, Hillmorton is a Grade II\* listed church. Like many Warwickshire churches it is built mainly of sandstone. However, there are other elements in its structure and it is summed up in Pevsner: The Buildings of England as being “unrestored and still delightfully patched with brick, stucco, and pre-Ecclesiological work”. The churchyard contains a number of monuments many of which are of sandstone but there are others of various materials including in one instance the use of blue brick and in others of what appeared to me to be slate or granite.
- 2) There is a grassed Area for the Burial of Cremated Remains, “the Memorial Garden”, immediately outside the east end of the church. This consists of a raised grassed area edged by a wall of Horton stone and surrounded by a number of benches (these being of dark wood).
- 3) The Memorial Garden contains one memorial to an individual in the form of a small slate or granite plaque. The incumbent and the Parochial Church Council wish to move away from individual memorials at the point of interment of each person whose remains are interred in the memorial garden. Instead they wish those interred to be commemorated on a single collective memorial. Accordingly, the Revd Margaret Simmons, the Priest in Charge, and Christopher Addison, a churchwarden, petition with the support of the Parochial Church Council seeking a faculty for a collective memorial. It is proposed that this should take the form of granite stand 39” high by 42” wide and 4” deep on a base 4” high by 48” long and 10” deep. There are to be three black granite tablets set on this wall. The names of those whose remains are interred in the Memorial Garden will be inscribed on

the tablets with each tablet having capacity for thirty-nine or forty names. The original proposal was for the memorial wall to be of polished granite.

- 4) The Diocesan Advisory Committee certified, correctly in my judgement, that the proposed memorial wall will not affect the special significance of this church. The Committee indicated that it did not object to the proposal but expressed reservations as to the intended use of polished granite. The Committee advised that it would “prefer to see a memorial in natural stone, for example, with the backing stone in natural sandstone and the name plates in slate.” In addition the Diocesan Advisory Committee made reference to the facts that the Churchyard Regulations do not permit incumbents to authorise the use of polished granite for memorials and that there were not any other polished granite memorials in this churchyard.
- 5) The Petitioners have sought to amend the Petition and have indicated that they would be content for the memorial wall to be of honed rather than polished granite but they resist the suggestion that sandstone should be used.

### **The Procedural History.**

- 6) I concluded that it would be expedient to determine the case on the basis of written representations. The Petitioners consented to that course. I have considered further written submissions from the Petitioners and comments from the Diocesan Advisory Committee on the revised proposal.
- 7) I made an unaccompanied site visit on 19<sup>th</sup> May 2017.

### **The Contentions.**

- 8) I have already set out the Diocesan Advisory Committee’s reservations in respect of the use of polished granite. The Committee has also considered the proposal that honed granite be used. It regards this as preferable to polished granite but would still prefer the use of sandstone as being a stone compatible with the church building. It is suggested that the weathering to which sandstone is vulnerable is a common feature in churchyards and should not be regarded as unwelcome.
- 9) The Petitioners’ desire for granite is based on its greater resistance to weathering than sandstone. They point to the weathering of the Horton stone wall around the

Memorial Garden; of the church itself; and of sandstone memorials in the churchyard. They say that the weathering of the memorial would detract from the purpose of a collective memorial which is to ensure that the names of those interred and commemorated will remain legible for a considerable time.

**Assessment.**

10) The starting point when considering whether to permit a particular memorial in a churchyard is for the court to have regard to the purpose of churchyards. I set out my understanding of that purpose in *Eccleshall: Holy Trinity* (Lichfield Consistory Court 2013) saying, at [8(a)]:

“Churchyards are consecrated to God, Father, Son, and Holy Spirit. Accordingly, they must be treated and cared for in a manner consistent with that consecrated status. Churchyards can also fulfil important spiritual rôles and can be a powerful part of the Church’s witness to the world. They provide appropriate settings for Christian places of worship and as such send out a message of the Church’s commitment to worshipping God in the beauty of holiness. They contain memorials to departed Christians demonstrating the Church’s continuing love for them and its belief in the communion of saints. The circumstances of interment and the memorials in a churchyard can be powerful evidence of the Church’s love for the local community. Churchyards are places of solace and relief for those who mourn. In addition many people find comfort in knowing that their mortal remains will be interred in a particular churchyard and in a particular setting. That comfort derives in part from a confidence that the character of that setting will be preserved. Churchyards are also an important part of our national and local heritage. Our care for them is part of the Church’s work of stewardship of our environment and heritage. Thus the Consistory Court must ensure that what is placed in our churchyards is fitting and appropriate against the light of those foregoing considerations. Moreover, the memorials placed in churchyards must be fitting and appropriate not just for today but also for the future.”

11) The aspects of that purpose of particular relevance here are that the churchyard forms the setting for the church and that what is placed in the churchyard must be fitting in that context. That is why the use of stone of a type compatible with that used for the church building itself is normally desirable. Such stone is most likely to be appropriate as part of the setting of the church. Moreover, memorials of a stone type compatible with the church building are less likely to appear out of

place or to detract from the overall appearance of a churchyard than those of stone which is not local to the area in question. A memorial made of a different type of stone will often stand out from the other memorials creating a contrast, drawing excessive attention to itself, and thereby detracting from the appearance of the churchyard as a whole.

12) It follows that individual memorials of a stone type contrasting with that of the church building will rarely be permitted. I am dealing in this case not with a memorial to a single individual but with a memorial on which many individuals will be commemorated. The intention is that in the fullness of time the memorial wall will record the names of at least one hundred and twenty people and potentially two hundred and forty (if both sides of the wall are used for recording names). The considerations relevant to memorials commemorating an individual or a group of family members apply in general terms to memorials commemorating a larger number of individuals. In particular there remains a need to ensure that such a memorial does not detract from the appearance of the churchyard as a whole. However, there are a number of differences between individual and collective memorials which are of relevance in this context. Those of note are:

- a) A collective memorial will normally be positioned some way from individual memorials. In such circumstances the risk of a jarring discrepancy or of the collective memorial sticking out like the proverbial sore thumb is reduced. Particularly that is so where the collective memorial is in a discrete Area for the Burial of Cremated Remains set apart from those parts of the churchyard in which graves are marked by individual memorials. In the present case the memorial wall will be some little distance from the closest individual memorial and will be in a part of the churchyard somewhat tucked away. Although it will be readily visible on the route to the church from the car park it will not be readily visible to those approaching the main south door from other routes.
- b) One reason for the court being wary about permitting individual memorials of unusual stone types or otherwise falling outside the Churchyard Regulations is a consideration of fairness. It would be a legitimate source of grievance to those who have foregone their own preferences and installed memorials according with the Regulations if others more forceful or determined were too

readily able to obtain permission for memorials outside the scope of the Regulations. The consideration is not present in the context of a collective memorial recording the names of all those whose remains are interred in an Area for the Burial of Cremated Remains.

- c) The proposal for a collective memorial and for a particular design will normally result (and certainly it does here) not from the preference of an individual person or family but from the collective assessment by the incumbent and the Parochial Church Council of what is pastorally appropriate for local families generally. Such an assessment made by the incumbent and the elected representatives of the parishioners must carry considerable weight with the court. The judgement of the incumbent and the Parochial Church Council as to what is pastorally appropriate will necessarily carry weight but the point does not end there. If those interring the cremated remains of their departed family members and other loved ones in an Area for the Burial of Cremated Remains are to be content with a collective memorial they must be satisfied that the collective memorial is of a fitting quality and appearance. The incumbent and Parochial Church Council in a particular locality are likely to have a better understanding than the court or the Diocesan Advisory Committee of what is required to satisfy the local community in that regard.

- 13) I am satisfied that if the memorial wall were to be of sandstone it would weather considerably more quickly than if it were to be of honed granite. Although a degree of weathering is not unacceptable in an individual memorial and, indeed, is to be regarded as appropriate, different factors apply in respect of the proposed memorial wall. That is to commemorate a significant number of persons whose remains are to be interred in the Memorial Garden. It is understandable the weathering which might be acceptable in respect of an individual memorial is not thought acceptable in that context. Not only is the memorial to last for a longer time but it will be commemorating those interred at different dates some of whom will be interred considerably later in time than those first commemorated on the memorial. In the case of individual memorials each memorial is in a sound and unweathered condition when erected. So in such cases the deceased person's bereaved family have the comfort of knowing that their loved one is to

be initially commemorated by a pristine memorial even if that will in the course of time become weathered. If a collective memorial were made of a material particularly vulnerable to weathering then some bereaved families would at some point be in the position of having their recently departed family member commemorated on a memorial already weathered at the time of interment. It is understandable that this would be seen as being pastorally unhelpful.

14) In the context of this church and churchyard a memorial made of honed granite will not blend in as well as would one made of sandstone. Nonetheless given that the memorial will not be in close proximity to other memorials and that the wall will be of a relatively modest size I am satisfied that any adverse effect on the overall appearance of the churchyard will be minimal. In the light of that and taking account of the pastoral considerations in this case I am satisfied that it is appropriate for there to be a memorial in the form proposed by the Petitioners.

15) Accordingly, I authorise the grant of a faculty permitting the installation of a memorial wall of the dimensions proposed made of honed granite bearing dark granite tablets.

STEPHEN EYRE  
HIS HONOUR JUDGE EYRE QC  
CHANCELLOR  
22<sup>nd</sup> May 2017