

IN THE CONSISTORY COURT OF THE DIOCESE OF CHELMSFORD

Re: RETTENDON: ALL SAINTS

J U D G M E N T

1. By a petition presented on 31st July 2018, the petitioners, Mrs Kerry Nancollas, Ms Kendal Avevor, and Mr Keir Snelling, have applied for a faculty authorising the erection of a memorial in the churchyard of All Saints Church, Rettendon, Essex. The petitioners are the adult children of Minnie Violet Snelling, who was born on 26th May 1932, and who died on 22nd November 2017, aged 85 years. Mrs Snelling's mortal remains were buried in the churchyard of the Church on 12th December 2017. By the proposed memorial the petitioners seek to commemorate the life of their mother.
2. I have seen plans for the proposed memorial, which is to be 70cm high and 50 cm in diameter, and constructed of grey, unpolished, Finland granite, ethically sourced. The memorial is proposed to be a bird bath containing the name, and dates of birth and death of the deceased, and with these words inscribed; "The goat's milk is sour." The proposal is for a memorial which is undoubtedly outside those permitted by the current guidelines and regulations. Quite apart from the question whether such a memorial is appropriate is the issue that to allow such could be said to be setting a precedent for future breaches of the guidelines, which have become increasingly difficult to enforce.
3. The proposed wording is unusual to say the least. It originates from words spoken over 30 years ago, and which became part of the family folk lore and a family saying, and which were used in the family at particular times of stress to relieve the tension and to strengthen family attachments. No one has objected to the wording, and having read the provenance of the expression I am content to approve it. I do not think that the proposed words could be said to be at risk of creating a precedent.
4. I accept that the erection of a bird bath is more problematic. The Archdeacon of Southend in a memorandum dated 21st November 2108 expressed concern because he thought it could lead; "to the possibility of other applications for similar memorials." Previously in an earlier memorandum dated 26th August 2018 he had said; "I am minded to approve this Faculty Application in principle....," but clearly was concerned about the permissibility of a bird bath. He clearly had in mind

that the Diocesan guidelines of 2009 specifically advise that bird baths are unlikely to be allowed. This, of course is not an absolute prohibition, and as the guidelines make clear; “Each petition will be considered on its merits,” ie on its particular facts, and supporting reasons.

5. The DAC in its Notification of Advice dated 12th December 2018, did not recommend the proposed memorial on the grounds that; “It is inappropriate for a birdbath memorial to be positioned at the head, foot or over the grave. Reasons relate to the possibility of other applications for similar memorials which may also, be inappropriate.” In other words, the DAC took much the same stance as the Archdeacon
6. The Priest-in-Charge, the Reverend Richard Jordan, and the PCC, on the other hand, took a much different view. Mr Jordan, in his letter of 14th March 2019, said; “The application was considered by the PCC.....who were clear that the circumstances around this particular memorial are distinctive. This arises from the combination of location of the grave (being at the end of a row furthest from the church and adjacent to trees in which other mourners have from time to time placed bird feeders) and the person being commemorated. The DAC’s only concern that has been reported to me or, I understand to the family, is that the memorial would form a precedent. This appears to be unfounded because of the circumstances of this application are distinctive and also contrary to the Churchyard Handbook which encourages creative and varied designs subject to faculty approval.....Both the PCC’s understanding of the distinctive nature of this application and the faculty process would be sufficient to avoid abuse of precedent.” It is clear that the Incumbent and PCC have specifically addressed the precedent argument, and how it might be dealt with, should it arise in the future.
7. At the meeting of the PCC on 18th June 2018, the application for a faculty had been approved and supported with this resolution; “We believe in this particular location it would add significantly to the graveyard if it is placed by the trees. With regards to the inscription, we believe the inscription is appropriate to the distinctive character of the person and should be located inside the bird bath (as is proposed). A copy of its meaning and the rationale for the inscription would be kept in the church for safekeeping.”
8. It is clear from what I have set out above that the Priest-in-Charge and the PCC not merely support, but positively approve the application for a faculty.
9. There have been no objections to the public notices displayed as required under **Part 6 Faculty Jurisdiction Rules 2015**.
10. On 6th January 2019, I gave directions, and indicated that I was prepared to deal with the petition on the basis of written submissions, provided that all concerned agreed in writing to this course being

adopted. On 28th February 2019, when giving further directions I repeated my view. By letter dated 20th March 2019, the petitioners have agreed to this course, as have the Archdeacon, by email dated 3rd April 2019, and the Priest-in-Charge, by letter dated 14th March 2019. 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.

11. 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 are not sought to be raised 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.
12. Insofar as practicality is concerned, the P.C.C. must be taken to have considered the issue since they have positively approved the proposals.
13. 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. At this juncture it is important to bear in mind the character of the person sought to be commemorated. Mr Jordan, in his email dated 8th January 2019, says that the late “Minnie (Snelling) was widely known as a character in the village.” In their written submissions to me dated 20th March 2019, the petitioners in providing more information about their mother, said; “Minnie Snelling was a very active member of the local community within the parish of Rettendon. Minnie was Chair of the Village WI group, a member of the local Dramatic Society, an avid supporter of village events, such as Horticultural Shows, School Fetes and Village Hall social events. In her earlier years, Minnie formed the 1st Hullbridge Girl Guide group and Ranger Guide Troop, became a Scout Skipper and Youth Leader and was also elected Chair of the Hullbridge Residents Association. Minnie had a great love and admiration of birds and was an ardent supporter of wildlife in general. The petitioners would like her memorial to reflect both her personality and her contribution to the life of the local community.”
14. It is abundantly clear that the late Mrs Snelling was indeed a character, and could be properly described as a stalwart of village life, being someone who clearly as a volunteer immersed herself in community life and all that such involved. Such people are indeed rare, and vital to village community life. In my judgment they, and their deeds, are well worthy of joyful commemoration, as is proposed.
15. Bearing all this in mind, it is, of course, important that the overall appearance of a churchyard is appropriate and not discordant. I am wholly satisfied that what is sought to be done is not in any way

aesthetically offensive, quite the reverse. Insofar as pastoral considerations are relevant to this petition, they are all one way, namely in the petitioners' favour.

16. Thus, for the reasons given above I accept the arguments of the petitioners. I am satisfied that the proposed works are desirable and are appropriate. In the premises, subject to what I have to say below, I direct that faculty issue. In saying this, I understand and do not seek to criticize the reservations of the Archdeacon and the DAC. However, each petition, as stated above, must be considered on its own merits and facts, and I must exercise my own judgment in accordance with such. Moreover, I consider, in the instant case, the very strong local support to be a highly relevant and important factor.
17. I do not consider, on the peculiar and indeed unique facts of this case, that there is any serious risk of an undesirable precedent being created. In any event, were a future application to be made for a birdbath or the like, this judgment will be available so as to clarify the reasoning behind the grant of this faculty.
18. There shall be a condition attached to the faculty to the effect that there shall be kept in the church a written account of the meaning and derivation of the inscription. I am content to leave the precise wording to be agreed between the petitioners and the Incumbent.
19. 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.

John Gallagher

Deputy Chancellor

25 June 2019