

Neutral Citation Number: [2020] ECC Wor 1

In the Worcester Consistory Court

Archdeaconry of Dudley: Parish of Alvechurch: Church of St Laurence

Faculty petition (19-24) relating to memorial to Valerie Shipley

Judgment

Introduction

1. Valerie Shipley died in June 2018, and her body was buried in the churchyard of St Laurence, Alvechurch. Her daughter, Mrs Joanne Hollyoak, now wishes to introduce a memorial above the grave. She and her father sought permission in the usual way from the vicar, who declined to authorise the proposed memorial, as it did not fall within the scope of the Diocesan Guidelines. Mrs Hollyoak has now submitted a private petition, as she is perfectly entitled to do, for a faculty to authorise the memorial she wants on her mother's grave.
2. The design of memorial chosen by Mrs Hollyoak and her father, Mr Roger Shipley, style EC87 in the catalogue of As Time Goes By (a local firm of memorial masons), consists of a vertical rectangular slab, made so as to loosely resemble a scroll, between two hand-carved angels, above a plinth resting on a base. The central "scroll" and the plinth and base are in Rustenburg dark grey granite, and the two angels are in a paler stone. I have not seen the proposed wording on the memorial, but no-one has raised any queries as to that.
3. It appears that Mrs Hollyoak first discussed her choice of memorial orally with the churchwarden, who indicated that it would not be possible to have either a memorial with a prayer book (Mr Shipley's original choice) or one with angels. She then contacted the Diocesan Registry, who advised her to contact the Rector, Mr Bubbers. He explained that (in her words) "if was up to me, I would let you have the headstone, but it's the Diocese decision not mine".
4. The Rector also sent Mr Shipley a letter, dated 11 May 2019, in which he explained that he was unable to approve the memorial by his daughter, as it did not comply with the Diocesan guidance, but that she could apply for a faculty. And he invited her to consider having the angels engraved on the face of the granite memorial.
5. The foregoing is a brief summary of what must have been a very frustrating year for Mrs Hollyoak and her father – who were of course also having to cope with the stress of recent bereavement.
6. As suggested by the Rector, Mrs Hollyoak submitted a private petition, dated 27 May 2019, for a faculty to authorise the introduction of a memorial in the form of the design EC87, including the carved angels. That is the petition that has, eventually, found its way to me.

The guidelines

7. In this diocese, as elsewhere, an incumbent only has delegated authority to approve memorials that comply with the relevant Diocesan or Churchyard Guidelines. These contain requirements as to the form, size and materials of memorials. The Diocesan Guidelines, issued in January 2004, are in force in relation to any proposed memorial other than one that is the subject of specific guidelines applying only to the churchyard in question.
8. Draft Guidelines have been produced for the churchyard at Alvechurch, which I have approved at the same time as issuing this judgment; but they are the same as the Diocesan Guidelines in relation to all of the matters that are the subject of this judgment.
9. Both sets of guidelines contain requirements as to the form, size and materials of memorials that can be approved by incumbents. These requirements are broadly similar to those that apply in other dioceses.
10. As to the form of a memorial, they require that, to be approved by the incumbent (in this case, the Rector), it must be a vertical headstone, or a vertical headstone on a horizontal stone base, or a horizontal stone slab, or a simple timber cross. They thus do not allow an incumbent to approve a vertical slab with sculptures to either side – as with the angels proposed in this case.
11. However, the types of memorial referred to in the Guidelines are only those that may be approved by the incumbent as a matter of routine – other types of memorial may be appropriate in particular cases. That is why a non-standard memorial may be authorised, but only in response to a faculty application, so that it can be more carefully considered.
12. The guidelines are, perhaps inevitably, somewhat legalistic in form. The Diocesan Guidelines were therefore accompanied by an explanatory booklet, *Churchyard Memorials: A Guide for the Bereaved*, also produced in 2004. That notes that:

“memorials that are much darker, lighter, taller, or smaller than those nearby, or which are of a completely different stone, are unlikely to fit in harmoniously. Nor are those which are in the form of a book, or an angel, or some other sculpture – unless there are many others of a similar character in the immediate vicinity.”
13. But it should be noted that it states that memorials of the kind described would be *unlikely* to fit in – but they may be appropriate in some cases.
14. As to the colour of a memorial, it cannot be approved by an incumbent if it is darker than Rustenburg grey – which is the colour of the memorial proposed in this case.
15. As to the content of a memorial, the guidelines merely state that any inscription must contain at least the name of the deceased, the date of her death, and either her date of birth or her age at death, and require that any factual material in the inscription is accurate. They do not refer to other artwork on the face of the memorial – hence the observation in the *Guide for the Bereaved* that:

“artwork may be added, at the discretion of the mason – either traditional Christian symbols (such as the Cross), or other decorative items (such as flowers)”.

Procedure

16. As noted above, most standard memorials will be approved by the incumbent, as a matter of routine, but it is perfectly possible for someone to seek approval for a non-standard memorial. This can be done by seeking a faculty from this court.
17. A proposal that is the subject of a faculty petition will normally be the subject of a formal comment by the DAC – either recommending it or giving a reasoned objection (as with any other petition). It should also be the subject of a comment by the incumbent. The incumbent may be in favour of the proposal, but unable to approve it himself because it does not fall within the Guidelines; or may oppose it in principle – perhaps because it is darker, lighter, taller, or smaller than those nearby, or of a completely different stone; or because of it is an inappropriate design; or for some other reason.
18. But it is insufficient for either the DAC or the Incumbent to oppose a memorial merely because it does not fall within the scope of the Diocesan Guidelines. They must state why they either support or object to it.

Application to the present case

19. The passage in *A Guide for the Bereaved*, quoted at paragraph 12 above, was cited by the Rector in his letter of 11 May to Mr Shipley, to explain why he could not approve the memorial being proposed by him and his daughter – he observed that “your daughter’s letter refers to there being only one memorial with angels in the churchyard”. In fact, her letter (of 2 May) only drew attention to one memorial (the Brazier memorial, considered below), and did not state that there was “only” one.
20. And the passage quoted at paragraph 15 above was perhaps the basis for the suggestion by the Rector in this case that it would be possible for him to approve a memorial in the form of a standard vertical slab, with a line drawing of an angel or angels engraved on the face of the slab. The DAC, in July 2019, made a similar suggestion.
21. It will be noted that the Rector in his letter was not stating his view of the proposed memorial – he was merely, correctly, stating that he was unable to approve it under the terms of the authority delegated to him. In view of Mrs Hollyoak’s suggestion that he was not opposed to her proposal, and in the light of the time that had elapsed since the original approach to him, I sought a fuller opinion from him. And I sought a formal view from the DAC.
22. I also visited the churchyard myself – unaccompanied by either the petitioner or a representative of the Parish.
23. In the light of the material before me, and following my visit, I considered that it was expedient to deal with the matter without holding an oral hearing.

The views of the DAC and the Rector

24. The view of the DAC was as follows:

“The committee agreed that, on the whole, they would not object to the proposed memorial. However, they suggested that there perhaps should be compromise on the matter of the angels. They note that, whilst the churchyard is by no means uniform, there is not a preponderance of sculptural features on memorials. The DAC adviser and vicar had discussed engraved angels on a standard headstone earlier in the course of the application, which was, they believe, rejected by the petitioner. The committee felt that they could support low-relief sculptured angels (as per the Brazier memorial) in the same colour as the headstone, as opposed to the full-relief angels in the proposed memorial. The committee would be content with the proposed grey colour of the headstone, though as stated the angels should also be in the same colour as the headstone.”

25. The reference to the Brazier memorial was to a memorial that had been cited by Mrs Hollyoak as a possible precedent. It is a memorial, made of white stone, and erected in 1970 to commemorate James and Lavinia Brazier, in the form of a stone between two angels – as proposed in this case – but the angels to either side of that memorial were in low relief, rather than the more three-dimensional figures proposed in this case. It is some way away from the proposed memorial to Mrs Shipley – approximately a dozen rows further up the hill. I observed on my inspection that, because of the topography of the churchyard, and the white stone of which it is made, the Brazier memorial is surprisingly prominent from further down the hill, even though it is not in fact very much higher than those in its immediate vicinity.

26. The Rector stated in an email to the Registry that “I oppose the memorial purely on the ground of trying to maintain consistency in the running of our churchyard in the interests of everyone, and for no other reason.”

27. He also explained the location of the memorials involved, to assist me in locating them when I visited. However, I noticed that he suggested that “the Brazier grave” is in the same row as Mrs Shipley’s grave. There is indeed a memorial at that location commemorating a Mr Kenneth Brazier (who died in 2017), in dark grey stone with no angels of any kind – whereas the Brazier memorial referred to by Mrs Hollyoak is undoubtedly the one further up the hill, erected in 1970. That error suggests an unfortunate lack of attention to detail on his part.

Discussion

28. In the booklet *A Guide for the Bereaved*, I identified three tests that may be applied to assess whether a proposed memorial is suitable:

- a memorial should respect its surroundings;
- a memorial should not impose an unreasonable maintenance burden on future generations; and

- the inscription should be the most appropriate in all the circumstances.

There may be others.

29. In this case, as identified by the Rector, the most significant of these is the first. The *Guide* explained the principle as follows:

A memorial should thus be in harmony with those round about, and with the churchyard as a whole; and the appearance of the churchyard should harmonise with that of the surrounding village or town. This does not mean that there has to be strict uniformity. Indeed, some churchyards are, rightly, criticised for being too uniform – which leads to them being bland and dull. But a memorial should not stick out like a sore thumb. The reason for this is that the churchyard will last for many years to come; and its character depends on that of all the memorials within it. No one of those should spoil that general appearance.”

30. In this case, I consider that the assessment by the DAC, which I have quoted in full at paragraph 24, is entirely accurate.
31. In particular, I agree that this churchyard contains memorials that are broadly uniform in terms of size, colour (mid to dark grey) and form (rectangular slab); but the detailed designs vary considerably. I therefore do not consider that it would be inappropriate to introduce a memorial featuring low-relief sculpture, as occurs in the Brazier memorial, and also in the memorials nearby to Leonard and Hilda Rogers, and to Audrey Woodhall and Ivy Collins. But I do not consider that full-relief angels, as proposed, would be appropriate.
32. I do not think that it would be helpful simply to refuse a faculty for the proposed memorial on that basis, as I have no doubt that it will be possible for Mrs Hollyoak to find a suitable design, featuring low-relief sculpture – probably in conjunction with the DAC. And the wording of the proposed memorial will need to be approved by the Rector.
33. A faculty should therefore issue to authorise the introduction of a memorial to Mrs Valerie Shipley, in Rustenburg grey granite, subject to conditions that no work is to be carried out until:
- (a) the design has been approved in writing by the DAC or, in default of such approval, by the court; and
 - (b) the wording has been approved by the Rector;

and the memorial is then to be introduced in accordance with the details thus approved.

Charles Mynors
Chancellor

7 February 2020