

25 July 2021

**IN THE CONSISTORY COURT OF THE DIOCESE OF PETERBOROUGH
IN THE MATTER OF BUGBROOKE CHURCH OF ST MICHAELS AND ALL ANGELS
AND THE MEMORIAL TO ARTHUR JAMES GOODRIDGE DECEASED**

Introduction

1. The petition is brought by Mr and Mrs Starmer in respect of the memorial stone for Mr Arthur James Goodridge. They seek permission to use the words “Dad” and “Pap” on the inscription. Mrs Starmer is Mr Goodridge’s daughter and Mr Starmer is his son-in-law. The Petitioners have agreed that this matter should be disposed of by way of their written representations. The incumbent, the Revd Stephen French, and the PCC were asked for their views, although the incumbent replied he would prefer the decision not to be made at parish level, in fact, he expressed contrary views in emails to Mr and Mrs Starmer and the Diocesan Registrar. Public notices were displayed and there were no objections.
2. The judgment was initially handed down on 23 March 2021, following which I received further representations from Mr and Mrs Starmer, and I agreed to meet them at the churchyard, after the pandemic restrictions had been eased on 1 June 2021. It was an opportunity for them to explain their position, and they had helpfully marked the gravestones which they said did not comply strictly with the Churchyard Regulations. I have taken time to further reflect on what should or should not be permitted in this particular churchyard. I should emphasise at the outset that I consider that the situation that exists in this churchyard is out of the ordinary in the diocese and should not be taken as a general policy relating to all churchyards.
3. The Petitioners have asked for permission that the proposed inscription reads:
“Treasured Memories of A Wonderful Husband, Dad and Pap, ARTHUR JAMES GOODRIDGE 1st May 1933-11th April 2019. You filled our lives with joy and laughter.”
The Petitioners have indicated that in due course they will wish to add the words “Mum” and “Nan”, presumably after Mrs Goodridge dies.

The Church

4. The Grade 2 * listed church of Saint Michael and All Angels is set in a delightful churchyard in an attractive Northamptonshire village. The large open churchyard surrounds the church with all parts being visible to visitors to the church. There are a number of footpaths running through and around the churchyard. The church celebrated its 750th anniversary in 1970. It was dedicated originally to the Assumption of Our Lady, later to become St Mary's, and it was not until the 19th century that the dedication of Saint Michael and all Angels was established.
5. This handsome church is built of marlstone, a form of sandstone interspersed with iron stone. The original church consisted of a broad nave of four bays together with the chancel. An aisle was added to the south side of the nave of four bays in about 1225 with the north aisle being added about 50 years later. The north choir aisle, now the Lady Chapel, was built as an extension to the east of the north aisle later. The aisle to the south of the choir was added in the late 19th century. The tower arch was built in the early 1300s. The tower was built in the 14th century with the pinnacles added in about 1890. The spire is octagonal. As set out in a Statement of Significance for an earlier faculty, the totality of the church's internal and external appearance developed over a relatively short historical timescale, which makes it deserving of its Grade 2 * listing.
6. On my unaccompanied visit in February 2021, I observed that there are a number of footpaths that run through and around the churchyard, which appeared to be well-used by local residents during the time I was there. From a visual inspection, I formed the view that there had been general compliance with the churchyard regulations in recent times, except for occasional lapses, mostly but not exclusively, over 30 or 40 years ago, probably before the introduction of the Diocesan Churchyard Regulations in 1992. On my visit in June 2021, accompanied by the Registrar, I formed a different view. Mr and Mrs Starmer had helpfully marked 34 memorials where the Churchyard Regulations had not been strictly followed, some of them minor but others more flagrant, some before and some after the introduction of the regulations in 1992.

The Law

7. As set out in the Churchyard Regulations, the starting point is that there is no legal right to place a memorial in a churchyard. Permission can only be given by the Chancellor of the Diocese. As observed by Chancellor Hill QC in a different context in **Re St. Margaret Rottingdean [2020] ECC Chi 4**, all works in a churchyard, including (the addition), removal, or alteration of a headstone, can only be carried out with the permission of a faculty, which is granted by the Chancellor, being the judge of the Consistory Court, wholly independent of the Diocese. A faculty can be sought by the incumbent, churchwardens, PCCs, archdeacons and individual

parishioners. Each diocese has its own set of churchyard regulations, which to a certain extent differ in content both by reasons of tradition and particular circumstances.

8. A copy of the full Churchyards Regulations (“the regulations”) from 1992 is to be found on the Diocesan Registry website. A summary of the 1992 Regulations which was also on the website was withdrawn some time ago. The principles I apply in the Diocese of Peterborough recognize that churchyards are a valuable heritage, and I wish to ensure that memorials placed in churchyards are appropriate to their settings. Under the regulations, the Chancellor has given incumbents authority to permit memorials within certain guidelines. In my view it is sensible that persons wishing to introduce a memorial into the churchyard should first consult the incumbent before selecting a suitable memorial, as the incumbent should have a copy of the Regulations and will be able to advise as to what type of memorial may be permitted. The practice has sensibly developed that where there are applications that may not follow the regulations then the incumbents refer the applications to the Chancellor.

9. There is a useful passage in the guidance given by Chancellor Hill QC to the Diocese of Chichester:

“A headstone is a public statement about the person who is being commemorated. Making the right choice of stone, design and inscription is important not only to the relatives or friends who are going to provide the memorial, but also to the wider community because of the effect which the headstone may have upon the appearance of the churchyard. ... Epitaphs should honour the dead, comfort the living and inform posterity. They will be read long after the bereaved have themselves passed away. A memorial stone is not the right place for a statement about how members of the family feel about the deceased nor how they would address him or her were they still alive. Passages of scripture, which have a timeless quality, are to be preferred.”

10. The statements above explain why churchyard regulations commonly give guidance as to the size, base, materials, carving and statuary, designs, crosses, vases, inscriptions, and commemoration after cremation. One of my initiatives in recent years has been to bring some uniformity to memorials in areas for cremated remains across the diocese, which has been generally welcomed, again as to size, stone, shape, and inscription. The overarching principle is to provide choice within a defined set of principles which are in keeping with the appearance of the churchyard, however, the regulations are essential to the proper maintenance of churchyards.

11. One of the most difficult and contentious issues are inscriptions. The regulations state:

“3.11 Inscriptions

- (a) *Inscriptions should be simple and reverent. Quotations will be taken usually from the Bible or Prayer Book including the Common Worship but, if desired, they may quote from other sources compatible with the Christian faith. The wording of an inscription must be included in the application and must be approved by the incumbent. Inscriptions may be incised or in relief, and may be coloured a shade lighter or darker than the surrounding stone. Gilded, silvered, plastic or other inserted lettering is not permitted.*
- (b) *An addition may be made to an inscription at a later date following a subsequent interment in the same grave or for some other good reason but an application for this must be made to the incumbent. The lettering, layout and wording of an additional inscription must be similar in design to those of the original inscription.*
- (c) *Guidance has been sought in relation to applications for wording which includes informal or abbreviated references to the deceased such as “Mum” or “Dad”. Ministers in charge should encourage applicants to use the full and correct English terms such as “Mother” and “Father”. However where applicants continue to want abbreviations the minister may allow these if he considers it right to do so.*

Before making his decision, the minister should consider the following factors: (a) Whether the minister or Parochial Church Council objects. (b) Whether any other person or body objects. (c) Whether the application is supported by the minister and Parochial Church Council, with knowledge that the informal word or words have been asked for. (d) Whether there are any other aspects of the proposed memorial which are outside what is normally permitted. (e) Whether the grave is in an obvious position in the churchyard (e.g. near a main path to the church) or is in a more distant part of the churchyard. (f) Whether the churchyard is one calling for a high level of inscription writing (e.g. a beautiful Grade I listed church with historic churchyard). (g) Whether there are any other memorials in proximity which have such words on them. (h) Diminutives for grandfather such as “Pop” or “Gramps” may be less acceptable than “Mum” or “Dad”.

If the minister is inclined to refuse the application because of the use of informal words, he should not announce this to the applicant or any other person or body, but should refer the matter to the Diocesan Chancellor (through the Diocesan Registrar) for a decision by the Chancellor.”

11. The decision I am required to make is discretionary, namely whether to exercise my judgment to permit or refuse the Petition. I do so by reference to but am not bound by the regulations, which were put in place to give guidance to both incumbents and applicants. I have considered the decision in **Re Church Lawford: St Peter** [2016] ECC Cov 3, in which HHJ Eyre QC Ch explained, by reference to an earlier decision of his own, that a “powerful reason” would be required before a memorial outside the scope of the churchyard regulations would be permitted, and the decision in **Re St John the Baptist, Adel** [2016] ECC Lee 6, where Chancellor Hill QC declined at [5]-[6] to follow the practice of requiring a “powerful reason”, or similar, before permitting

memorials outside the scope of the regulations. Instead, he followed the simple approach explained by Chancellor McGregor in **Re St John's Churchyard, Whitchurch Hill** (Oxford Consistory Court, 31 May 2014), at paragraph 16, where he considered that the burden of proof lay on the petitioner to show why a faculty should be granted to authorise the particular proposal set out in the petition.

12. Whilst there is a difference between the decisions of Chancellor McGregor in **Re St John's Churchyard, Whitchurch Hill** (Oxford Consistory Court, 31 May 2014) and HHJ Eyre QC Ch in **Re Church Lawford: St Peter** [2016] ECC Cov 3. I prefer the approach adopted by HH Judge Bullimore in **In Re Holy Trinity Churchyard, Freckleton** [1994] 1 WLR 1588 where he said:

"A balancing exercise has to be undertaken in weighing the arguments for allowing a particular departure from the regulations, against any arguments the other way. What is inappropriate in one location, for example highly polished black granite, which all or nearly all regulations prohibit, could be allowed in one churchyard if over the years a considerable number have been introduced there. That would not make it acceptable in the churchyard of the next parish."

13. There are a number of other reported cases at first instance, which I do not propose to rehearse, where Diocesan Chancellors have expressed in different ways, support for the scheme of management for churchyard memorials. They make clear that churchyards are for the whole community and not just individual families in past, present and future generations. It has also been repeatedly said that past failure to observe the regulations should not be used to permit memorials that are in breach of them.
14. Putting to one side the first sentence of paragraph 23 of the judgment of HHJ Eyre QC Ch in the judgment in **Re St. James Newchapel** [2012] (Lichfield), paragraphs 23 to 25 contain useful dicta from him as to why there should be a uniformity of approach as to how the regulations should be applied.
15. In paragraphs 23 to 25 of his judgment in **Re St. James Newchapel** [2012]. (Lichfield), HHJ Eyre QC Ch stated that:

"23. The requirement that there be a powerful reason if a memorial which does not conform to the Chancellor's Regulations is to be permitted is a matter of justice and fairness to those who have erected conforming memorials. There are many families and individuals whose personal preference would be to have a memorial to a departed loved one in a form going beyond the Chancellor's Regulations. In the vast majority of cases such persons accept the approach laid down in the Regulations and erect a memorial conforming to the Regulations. In doing so they put aside their personal preferences and accept a memorial in a form different from that which they would have chosen if given a free hand. In many instances this will involve acceptance of a memorial which they regard as second-best or otherwise unsatisfactory and such acceptance will often be combined with a feeling of unhappiness and distress. Such people would have a legitimate sense of grievance if others (perhaps more

articulate or forceful or with more time, money, or personal skills) were able easily to obtain faculties for non-conforming memorials. Fairness to those who have reluctantly complied with the Chancellor's Regulations requires the Court to confine exceptions to cases which are truly exceptional."

"24. Similarly, account must be taken of the legitimate expectations of those who have buried their departed relatives in a particular churchyard and of those who are to be buried therein. Those who have interred departed relatives in churchyards on the footing that the appearance of the churchyard will be maintained in line with the Chancellor's Regulations will have cause to protest if the requirements of the Regulations are lightly set aside. Again, those who have paid fees for the reservation of grave spaces have a legitimate expectation that the character of the churchyards in question will be kept in accord with the Regulations.

25. Whether a particular reason is sufficiently exceptional to justify the grant of a faculty will be an exercise of judgment in each case. The Court has to take account of the foregoing factors and of the matters said to justify the departure from the Regulations. Account will also have to be taken of the extent of the deviation from the Chancellor's Regulations. The greater the extent of the deviation and the more readily apparent the same is to those visiting the churchyard in question the less likely it will be that a faculty will be granted. Conversely in a particular case where the extent of the deviation is less there is likely to be a lesser impact on visitors and the considerations operating against the grant of a faculty might have less weight though I repeat that in every case a good reason must be shown before a faculty will be granted for a memorial which does not conform to the Regulations."

14. In my view the purpose of the regulations is to give guidance to the incumbent and applicants in the context of individual parishes, as to what is acceptable and unacceptable by way of a memorial, whether it is the design, the stone, or the inscription. If the application is likely to be contentious then the incumbent refers the matter to me as Chancellor for my consideration. I acknowledge that it is more difficult to be prescriptive about memorials where there has been a tendency over recent years for incumbents not to follow the regulations and permit memorials that are outside the regulations. As said above, that is not, however, a good or sufficient reason for permitting further breaches of the regulations, because if that were followed, the ultimate result would be that there was no purpose in having the regulations. Nevertheless, there have been a small number of churchyards in the Diocese where the number of memorials in breach of the regulations has been so overwhelming that I have permitted memorials which I would not have permitted in other churchyards.
15. The introduction of headstones in a churchyard on a wide scale began in the 19th century and was intended to commemorate the deceased but to do so in a respectful Christian way not only for that person, his or her family but for the wider community, including others who were buried in the churchyard and their families who tended their graves or visited the churchyard. It was not, and should not be, an opportunity to be overly sentimental about the person who has died, which is why

photographs are not permitted and why, sometimes, difficult decisions have to be made about toys for children who have tragically died young being placed beside the memorial. Similarly, I have not encouraged engravings unless there is a particular association that should be commemorated, often again in the case of a person who has died young. It is for all these reasons that the regulations specify reverent quotations and not statements about how members of the family felt about the deceased.

16. The use of informal names *“Dad, Mum, Granddad, Pap or Pappy, Nan or Nanny”* raises another issue. Of course, they are all terms of endearment in use in everyday lives but are not, in my view, generally appropriate for use as a public record of a person’s death. In my view, it is more appropriate to use the more formal names of husband, wife, father, grandfather, grandmother as a permanent record of the relationships attributed to that person. Those terms are used on birth certificates, marriage certificates, death certificates and other official forms. In the vast majority of cases, parishioners, who choose to have their loved ones buried in churchyards, accept this principle, although there are always a minority who wish to use informal names or other diminutives. It is a question of balance which I have to apply and whilst the regulations do not outlaw their use, their use is discouraged. To widen the net uniformly to include specific names such as *“Pap or Pappy”* because that is how a person is referred to in a particular part of the diocese misses the essential point of the memorial maintaining a formal record of the information relating to that person. Whether or not formal or informal language is used should not lessen how that person’s family feel about visiting the grave or describing that person at the graveside or in other places.
17. Turning to this petition, the Petitioners have sought to rely upon the guidelines set out in the regulations relating to inscriptions. The points that they make are as follows:
 - (1) The incumbent and the PCC support the proposed inscription. I had not seen the incumbent’s email to the Petitioners until they produced it after this judgment was initially handed down. In it he said in an email dated 3 August 2020: *“Thanks for your email and as you will be aware the final decision is totally out of my hands. However, if you pursue this and final judgement is in your favour you will have made the task of observing ‘Diocesan Regulations’ for myself and many of my colleagues so much easier.”* In a subsequent email to the Diocesan Registrar, he indicated that the PCC had voted to remain neutral and let me make the decision. In another email to the Diocesan Registrar he said that his email to the Petitioners had been ambiguous and that he opposed the use of the description *“Pap”*.
 - (2) There are four other families who would like to use similar wording. I am now aware of one other application which seeks to use informal descriptions of the familial relationships.

- (3) The Petitioners are prepared to accept that Mr Goodridge's full names and dates of birth and death should be included and that the inscription should be one shade lighter or darker than the memorial stone.
 - (4) The Petitioners submit that the grave is positioned well away from the church, or any paths and is situated at the bottom of the churchyard, close to the perimeter and gardener's shed. I remain of the view that Mr Goodridge's grave is not in an out-of-the-way place. In my view, it is clearly visible from other parts of the churchyard, including the footpaths.
 - (5) The Petitioners submit that whilst Bugbrooke is a beautiful church, the churchyard serves the local village population who visit the graves, and there is no need for a high-level inscription. They also rely upon there being numerous precedents using the proposed wording. I do not agree that the churchyard should not have a high standard or level of inscriptions. In my view the beauty of the church and its setting within the churchyard, should fall firmly within the category where the quality of the inscriptions should be highly relevant. The Petitioners, however, have been able to show me 34 memorials where informal descriptions have been used, although not in the immediate vicinity of Mr Goodridge's grave.
 - (6) The Petitioners seek a definitive ruling that "*Dad, Mum Pap or Pappy and Nan or Nanny*" are acceptable. They inform me that "*Nanny or Pappy*" are common Northamptonshire names for grandparents. The Petitioners submit that the decision should not be based on the preference of the Chancellor but on a consistent and reasonable approach meeting the wishes of the families involved. They wish to use the names they knew for the deceased. They state that they have found the process distressing already coping with bereavement. I am saddened that they have found the process distressing but I have already set out in paragraph 16 above why the use of informal names should, in my view, be discouraged.
 - (7) I have set out the background to the Chancellor's jurisdiction and approach above. I have to maintain a scheme of management for the Diocese and individual churchyards, assisted by the regulations, it has to be appropriate to those who have been buried in the churchyard and for those who are to be buried in the churchyard. I appreciate that the process may be distressing but it has to be for the benefit of the wider community.
18. Notwithstanding the above, the Petitioners have satisfied me that their application falls outside the general advice given to incumbents and applicants in the diocese which is contained in the regulations. Whilst I accept that the less formal names are in everyday use, they are not, in my view, generally suitable for a permanent record to be placed on the memorial and, as the regulations state, should be discouraged. As HH Judge Eyre QC said, set out above, fairness includes fairness to all other families who have complied with the regulations. In this case, it is of particular relevance that

there are 34 memorials where informal descriptions of the familial relationships are used, albeit that there no memorial stones in the immediate vicinity of Mr Goodridge's grave which use the words "*Dad, Mum Pap or Pappy and Nan or Nanny*".

19. The question is whether I should go outside my expressed view that formal descriptions of familial relationships are more appropriate on memorials. Having visited the churchyard for a second occasion, in the company of the Petitioners, I am persuaded that there are sufficient examples of the use of "*Dad*" and "*Pappy*" to permit their use, however, this decision should not be taken as an encouragement to use less formal names in churchyards where the use of formal names has been the norm or where it is supported by the PCC. The Diocesan Registry has prepared a list of 11 applications since 2000 for this churchyard which show that I have permitted use of diminutives on a small number of occasions, on memorials where they had already been used for another member of the family. In my view, it is regrettable that installation of other memorials over the years, permitted by successive incumbents, has undermined the regulations to such extent that their maintenance can no longer be justified. It is also unhelpful to all concerned if the incumbent is not consistent in expressing his views, whether it be to applicants or the Diocesan Registry or to me. In my view, the incumbent should continue to encourage the use of formal names wherever possible.
20. I remain of the view that, as Chancellor, I have a wider role to protect and enhance the appearance of churchyards now and in the future, maintaining formality and dignity to those that are buried there and those who visit them, whether or not they are visiting that person's grave or another person's grave. Nevertheless for the reasons set out above, I allow this petition.

David Pittaway, QC

Chancellor