

IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY

**In the matter of the Church of St James, Bulkington
Re : Dawn Marie Hardy, deceased.**

**Private Petition for erection of Headstone in Churchyard
C6003/2018**

JUDGMENT

1. By a petition dated 26th January 2018, Mr Stephen Anthony Hardy seeks a faculty for the introduction of a memorial into the Churchyard of St James in Bulkington. It is to mark the grave in which are interred the remains of his Wife, Dawn Marie Hardy. The deceased was aged 48 when she died at the end of May 2016 and her funeral service was held the following month.

The proposed memorial

2. The proposed memorial is to be fabricated from dark grey polished granite with silver lettering. The headstone would be 30” in height, atop a base of approximately 3” in height, itself seated on a foundation approximately 2” in height. The headstone would be 28” broad and of a reasonably conventional shape, other than that protruding from the upper edge it is proposed there be two abutting heart shapes, one containing the initials of the deceased in cursive script (D.M.H.) and the right-hand heart bearing what I presume are the initials of the deceased’s daughter (G.G.H.), also in cursive script. Within the base it is proposed to place two separate flower urns.

The proposed inscription and embellishment

3. On the obverse of the upright headstone it is proposed there be inscribed the following text in Roman lettering :-

“TREASURED MEMORIES
OF
DAWN MARIE HARDY
12th JULY 1967 ~ 26th MAY 2016
AGED 48 YEARS
LOVING WIFE OF STEVE,

BELOVED MUMMY OF GEORGINA GRACE,
A DEARLY LOVED DAUGHTER, SISTER AND AUNTIE,
MUCH LOVED DAUGHTER-IN-LAW AND SISTER-IN-LAW

X X X X X X X

You Will Always Be Our Shining Star,
Love and Miss You Always,
Forever In Our Heart.”

The Parochial Church Council

4. At a meeting of the Parochial Church Council on 2nd May 2018 the proposed memorial was discussed by the members present. The Parochial Church Council Secretary has confirmed that the Parochial Church Council members “were unable to pass a resolution agreeing to this memorial”. It was further reported “the protruding hearts at the top of the memorial was their prime reason for this”.

Diocesan Advisory Committee advice

5. On 24th May 2018 the petition was considered by the members of the Diocesan Advisory Committee. A notification of advice was issued on 31st May 2018 whereby it was indicated that the Committee did not object to the proposed memorial. The reasons for giving a certificate of no objection were specified as follows : “the memorial could not be unqualifiedly recommended because neither the proposed design nor the material (polished granite) are acceptable within the regulations”.

Public Notice

6. Following receipt of the advice of the Diocesan Advisory Committee a public notice concerning the Petition was displayed at St James’ Church from 6th June to 4th July 2018. No objections have arisen following the display of that notice.

The Churchyard Memorials Regulations

7. In March 2012 the Chancellor issued regulations for Memorials in Churchyards within the Diocese of Coventry. The regulations state that a memorial should be no more than 4 feet high, no more than 3 feet wide, no more than 6 inches thick (and no less than 3 inches thick unless made of slate). The dimensions of the proposed headstone are both smaller than the maximum height and width requirements.

8. As regards the proposed material to be used, the regulations state : *“Polished granites, marbles or synthetic stone are contrary to these regulations. Memorials of this kind have become very popular in municipal cemeteries in recent years, but unfortunately these polished stones tend to stand out in a churchyard. Such stone rarely blends well with the church itself, and looks out of place amongst memorials made from the more traditional kinds of stone. Where, through a lack of adherence to earlier diocesan rules, certain areas of graveyards have become partially dominated by such alien stones, PCCs are reminded that this is no reason to let the practice continue and are urged actively to discourage the use of such alien stones. The fact that memorials of this kind may already exist in a churchyard is no indication that another one will be permitted. However, where there is already in existence 6 (six) or more stones which are of the same material, design and colour, but do not meet these regulations at the date of publication, the incumbent may, with the Archdeacon’s consent decide, on pastoral grounds, to permit the continuation of stones of the same material, design and colour as those existing to complete a clearly defined area or row”*. It is further stated that *“gilding or silvering of lettering is not permitted . . . without a faculty”* and *“Other shapes of memorials, such as an **open book** or like a **heart**, are not permitted”*. The regulations also state that no more than one flower-holder would be permitted.
9. The regulations have this to say about the wording of inscriptions :-
“An inscription should aim to be simple, reverent and commemorate accurately the existence of the person who has died. It should be informative to future readers. It should be consistent with the Christian belief in life after death and should not, therefore, simply be confined to expressions of personal loss or sorrow. The inscription should record either his or her full name or else the surname and the Christian name by which he or she was generally known (for example “Thomas Joseph Smith” or “Thomas Smith”). Today there can be no reasonable objection to including, as well, any particular term of affection or widely used nickname (“Dad” or “Tommy”), perhaps in brackets or inverted commas. However, a name on its own says little. A memorial is possibly the only place to say something publicly about the person who has died. It may, therefore, be appropriate to record what he/she did (“farmer in this village for fifty years”) or some feature of his/her character (“a much-loved father and grandfather” or “a kind and gentle daughter”).”
Then the regulations touch upon Quotations :-
“Some may wish to add a biblical text, or an extract from a poem, or some suitable phrase from other Christian sources. Over-sentimental expressions

should be discouraged, if possible. It is recognised, however, that this may not be easy. Whereas even fifty years ago many biblical or literary quotations were familiar to a broad cross-section of the population, this is probably true no longer. Nowadays, phrases picked up from popular songs (“He did it his way”), or television shows, may well be in the minds of grieving relatives – witness the deaths columns in local newspapers. So, an understanding, sensitive approach from the incumbent is to be encouraged. Careful, yet diplomatic, persuasion may be needed before agreement is reached upon an appropriate wording. In undertaking this sometimes difficult task, the incumbent should point out that memorials in churchyards are of a relatively permanent nature and, by their inscriptions, ought to reflect wherever possible the Christian approach to life and death. It should be emphasised that, simply because a grieving relative doggedly insists on a particular expression, no incumbent must feel obliged to agree to an inscription on a headstone which he or she genuinely feels is inappropriate.”

10. In a paragraph headed “General Approach” it is stated in the regulations : *“The general approach is that each churchyard should be harmonious in appearance, and it should form a worthy setting for the church in its midst (many of which are listed buildings in conservation areas). Harmony does not mean uniformity but the design and choice of material for a memorial should seek to ensure its successful integration with the established character of the churchyard. Headstones need not be restricted to a conventional rectangular shape. Attractive, well-conceived new designs by skilled and imaginative craftsmen are genuinely encouraged. Harmony does, however, mean that stones should be compatible with, and appropriate to, their surroundings and that no memorial should stick out like a sore thumb.....A churchyard is not a private place in which anything is acceptable. It is a place where many people have a shared interest in its appearance. Nobody wants to see the appearance of a much-loved churchyard, or part of it, spoilt by the introduction of an inappropriate new headstone or other memorial. That this has happened in various places, even in recent times, cannot be denied. One of the objects now, however, is to help prevent it happening again....”*

Arguments presented by Petitioner

11. The Petitioner did not appear aware that polished dark grey granite is ordinarily contrary to the Churchyard regulations (see in particular regulation 6.2) as he sent the following ‘statement’ in support of his petition (punctuation as per the handwritten statement) :

“The headstone requested is the correct size, shape and colour for the Churchyard, the only difference being is that the two hearts are slightly raised from the top of the headstone. The reason I understand we have been refused the headstone is because this is different to the standard set.

Having viewed the churchyard there are many many headstones that are different from the standard set most of which are even more different in shape, size and colour.

All factors being taken into consideration I would request that the headstone be accepted for the churchyard.”

12. Given the above I asked the Registry Assistant to write to the petitioner to ask whether he wished to supply further evidence or whether he simply wanted the petition considered on the basis of the material already submitted. I also asked that the following information be passed to him for his consideration :

the Petitioner should be invited to consider the following points when deciding whether to submit further evidence.

The Churchyard regulations ordinarily prohibit:

- 1) Polished granite;*
- 2) silver lettering;*
- 3) heart shapes on headstones.*

The regulations also state that there should be no more than one urn/flower vase.

It is also noted that it is usually expected that (a) inscriptions should be informative but not overly sentimental (for instance, Mother is usual rather than Mummy) and (b) quotations or messages should ordinarily be from a biblical text, poem or some other Christian source.

Further, it is not usually permitted that the memorial should honour the identity of a person who is not interred in the grave.

It is for the Petitioner to satisfy the Court that there is a good and sufficient reason to step outside the Churchyard Regulations for any one of the points raised above, let alone all of the points identified.

The petitioner was directed that any additional information be submitted by 15th August 2018 (four weeks after my direction).

13. In response to the communication with the petitioner he sent to the registry a two page document together with 112 photographs of other memorials in the Churchyard at St James (not photographs of 112 different memorials but 112 photographs with which to illustrate his arguments).

He concluded his submissions with this comment :-

‘The photographs supplied are a small sample of the varied headstones in St James cemetery (sic) for each point raised there are many other examples of stones that infringe the regulations.’

He then stated *‘If it would help I would be more than willing to meet with the churches representatives at St James cemetery (sic) at a time of their*

convenience to discuss the application'. I do not take that to be a request for the application to be considered at a formal hearing of the Consistory Court. Given the considerable photographic evidence submitted I do not consider that a formal site visit is required.

14. The arguments expressed by Mr Hardy in the two page document were as follows, using the headings he used in his document :

Headstones different colour and shape

One photograph of a '*standard*' headstone

This is in fact a polished grey granite headstone with white lettering.

Eighteen photographs to show the '*different shapes, sizes and colours*'.

There are indeed eighteen photographs of fifteen different headstones of various shapes and different stone types, including slate and several of polished granite. Four bear a heart motif. One has a cut through hole in the shape of a heart with a carved white dove inside the hole. (That same headstone has a carved inscription that is overly sentimental and certainly does not appear to reflect the Christian approach to life and death. It is very surprising to see that headstone in the churchyard of a listed church building). One polished granite stone has an engraved heart inside which in cursive script is the expression 'Your Joan', apparently included when a husband died in 1973 aged 42, but the headstone also indicates that the Wife, Joan, was interred in the same grave after she died in 1997.

Point 1a Granite

Fifteen photographs '*showing a small sample of granite headstones*'

There are indeed fifteen photographs showing eleven different polished granite headstones in various shades from dark black to light grey.

Point 1b Silver and Gold lettering

Fourteen photographs showing silver lettering

Of the photographs supplied it actually appears that a majority of the headstones depicted have white lettering rather than silver.

Eighteen photographs showing gold lettering

The photographs are indeed examples of gilded lettering on polished headstones. Several of the headstones depicted have been included in earlier examples of features outside the churchyard regulations.

Point 1c shapes or images on headstones

Twenty-one photographs showing '*quite a varied amount of shapes and images on headstones*'

There are numerous photographs showing designs carved onto gravestones, several (for example) depicting affiliations of the deceased, for example, the Royal British Legion crest, the Royal Naval submarines badge (I know that some of these emblems appear by way of faculty permission, for instance the

use of the Coventry City FC crest, where permission of the Club was openly given in the circumstances pertaining to the deceased). Of relevance to the issue raised under the Churchyard regulations are six where the shape of a heart is somehow incorporated into the design. These include the heart shaped hole and the ‘Your Joan’ shapes mentioned earlier. One has interlinked heart shapes, but with no script inside the heart-shapes. None depicts the heart shape as a carved feature emerging above the upper edge of the headstone, as is proposed. I am, however, disturbed to see a number of headstones, particularly from the late 1990s and early 2000s, bear etched or engraved images that have been painted in bright colours, particularly when depicting flowers.

Point 2 one flower vase on memorial base

Fifteen photographs showing ‘*memorials with 2 flower vases*’.

There are indeed fifteen examples of graves where there are two flower holders. From the inscriptions visible in the photographs it appears that the vast majority of these headstones mark double graves/plots, where the remains of two departed people are interred. Only two examples are clearly of graves where there has been interment since the Churchyard Regulations came into force.

Point 3 use of mummy/mother

“The headstone is a memorial for Dawn. In the 16 ½ years that Dawn was here with Georgina the only name that I or any other person has ever heard Georgina call Dawn is ‘mummy’. Whenever she talked about Dawn it was ‘mummy’, whenever she called her it was ‘mummy’ this ‘mummy’ that. Subsequently since May 26th 2016 whenever Georgina talks about Dawn it is ‘mummy used to do this’ or ‘can you remember when mummy forgot the car keys’ or ‘mummy always made the best lasagne’.

The word ‘mummy’ is the only way that I can describe Dawn in Georgina’s eyes. She is and will always be her mummy.

It is with this in mind that I ask that approval is given for the use of the word ‘mummy’.”

[As an aside, this is one of the most compelling requests I have yet received from a lay petitioner. Whatever memorial ultimately is erected to honour Dawn Marie Hardy it seems obvious to me that her relationship to Georgina should be described as ‘Mummy’].

Point 4 identity of persons not interred (sic)

Ten photographs showing ‘*headstones with the names of persons not interred*’ (sic).

These photographs again include the ‘Your Joan’ heart shape (it has already been pointed out that Joan has subsequently been interred in the same grave). There is also another carved heart shape within which is carved in cursive script ‘Sue & Len’. It is not clear from the photograph whether both Sue and

Len are interred in the grave, nor whether it is intended that this should be a double grave where both will ultimately be interred.

The remaining images miss the point entirely, showing the names of the spouse or children of the deceased in the carved text explaining the life of the departed. It has not been suggested that it is inappropriate to name the close relatives of the deceased in such terms, but the proposal here is to include a heart shape bearing the current initials of the Dawn Marie's daughter.

Upon that point the two page document states the following :- *'In relation to this point we are not trying to honour GGH but are trying to show a mother's love 'DMH' for her daughter 'GGH' and this will always be a reminder of that love for Georgina whenever she visits her mummy.'*

Further considerations on the legal basis for headstones falling outside the Churchyard regulations.

15. In this present matter I am particularly conscious that the elected representatives of this church community do not feel able to support the proposed memorial, primarily (but, therefore, not exclusively) because of the protruding heart shapes. In his judgment in **Re Christ Church, Harwood [2002] 1 W.L.R. 2055** at p.2056 Chancellor Holden stated the following: "The overall beauty and tranquillity of a churchyard is only as good as its constituent parts allow it to be. The rights and interests of private individuals, of the worshipping congregation, of all parishioners, of the local community, and of the Church and society at large all have to be considered in permitting a memorial, which is likely to last for ever, to be placed in a churchyard. There cannot be a *carte blanche* situation where a family of the deceased has the sole right to decide what is, and what is not, appropriate by way of memorial, not least because...the family do not own the land in which the remains are placed, or on which the memorial is meant to be placed." These words have been quoted in numerous subsequent judgments.

16. The starting point for considering a petition for a faculty to issue for a memorial which is contrary to the Churchyard Regulations is that permission will not ordinarily be given for such a memorial. A powerful reason must be shown before a faculty for a memorial outside the regulations will be given. In **Re St Mary Kingswinford [2001] 1 WLR 927** Chancellor Mynors summarised the circumstances in which such a faculty could (but need not necessarily) be given : "However, at least some non-standard memorials will be approved. This is likely to be for one of four reasons. The first is where a proposal is for a specially designed memorial which may be non-standard, but which is a fine work of art in its own right. Such proposals are indeed to be positively encouraged. The second is where a proposal relates to a category of memorial that may be suitable in some churchyards but not in others, so that it

would be inappropriate to issue a general authorisation. There are after all some variations between churchyards in different parts of the diocese and such regional variations are not to be either ignored or suppressed. The third situation where a non-standard memorial may be allowed is where there are so many examples in the churchyard concerned that it would be unconscionable to refuse consent for one more. The fourth reason for approval is where a stone might be aesthetically or otherwise unsatisfactory, but where there are compelling personal or other circumstances suggesting that a faculty should nevertheless be granted.”

17. In the current petition points one and two of the Kingswinford judgment do not seem to apply. The arguments appear to be a combination of points three and four, although not specifically expressed as such. The main thrust of the argument appears to be (1) there are lots of polished granite headstones in this Churchyard so another one should be permitted, (2) there are lots of headstones with gilded lettering, so a stone with silver lettering should be permitted, (3) several headstones have two flower holders contrary to the regulations, so we should also be permitted to have two flower holders and (4) there are lots of different designs carved or etched on headstones, including heart shapes, so we should be permitted to incorporate two heart shapes, including one carved with the initials of someone not interred in the grave.

Decision

18. I have now to turn to my decision upon the petition. It is complicated in that there are so many elements requested that are contrary to the Churchyard regulations. I remind myself that it is for the Petitioner to satisfy the Court that a ‘powerful reason’ exists (not merely a ‘good’ reason - the word used has clearly been chosen to indicate that there should be an extremely good reason for stepping outside the regulations). Simply saying ‘there are a number of headstones that fall outside the regulations’ is not sufficient, although I remind myself of what is said in the regulations concerning previous breaches, as outlined in paragraph 8 above. (Here I should point out that there is no evidence that the grave of Dawn Marie Hardy is situated in an area of the churchyard populated with headstones that fall outside the regulations, although that may not be a substantial consideration given the number of photographs supplied).

Choice of material

I am satisfied, from the number of photographs supplied and my previous experience of petitions arising from the churchyard of Bulkington St James, that one further granite headstone would not look out of place. The choice of grey granite appears preferable to black. In the circumstances there may be polished surfaces, but the Petitioner should consider whether to accept the advice that the edges and reverse should be honed rather than polished.

Silvering of letters

The photographs supplied specifically to illustrate the frequent use of silvered letters do not appear to support the contention. However, there are among the other photographs sufficient examples of silvered lettering to again show that silvering would not ‘stick out like a sore thumb’ in the churchyard of Bulkington, St James. Certainly it appears that silvered lettering is less intrusive than gilded lettering. In the circumstances there may be silvered lettering, but the Petitioner should consider whether to accept the advice that there be white lettering rather than silvered.

Text detailing life and death of Dawn Marie Hardy

I have already addressed above the one concern that arose from the chosen wording, that being the choice of the word ‘mummy’ when concerning the daughter. There is, in my judgment, nothing wrong with identifying that Dawn Marie’s husband is known as Steve and her daughter is called Georgina Grace. Further, the Petitioner has put forward a particularly compelling argument why the inscription should read ‘beloved Mummy of Georgina Grace’ rather than ‘beloved Mother’. In the argument put forward by the petitioner the word ‘Mummy’ was placed in speech marks on each occasion it was mentioned. That same consideration should be carried through in the inscription upon the headstone, so that the future observer will be able to glean that ‘Mummy’ was the name used by Georgina Grace for her Mother.

Additional text of love and regret at the passing of Dawn Marie

The three lines of chosen text to go below the life information of the deceased are sentimental in nature, but clearly show that Dawn Marie was dearly loved and continues to be missed by those she left behind. The text cannot be described as “*a biblical text, or an extract from a poem, or some suitable phrase from other Christian sources*”, as would be encouraged by the Churchyard regulations. However, I have seen a large number of inscriptions from the churchyard at Bulkington St James. Many of those are from no discernible Christian source and one at least would, in my judgment, be deemed ‘overly sentimental’ and unlikely to receive permission if presented today for a faculty. Of course, the presence of other non-Christian messages on other headstones does not automatically mean that this text should be permitted. However, although the proposed inscription is not biblical, neither is it irreverent or likely to offend. It conveys, at it is intended, that Dawn Marie remains in the thoughts of those she loved. In the circumstances I see no reason to oppose the proposed wording. For the avoidance of doubt, I also authorise the use of the seven proposed crosses/kisses dividing this text from the life details of the deceased.

Two flower holders rather than one

The Churchyard regulations are clear that no more than one flower holder should be permitted. This is in part, but not exclusively, to guard against a

profusion of dead flowers remaining on graves across the entire churchyard. The petitioner has provided a number of photographs showing headstones with more than one flower holder, but in the main these appear to be graves holding, or intended to hold, the remains of more than one person. The spread of wording on the proposed headstone does not suggest that it is intended that others will ultimately be interred in this plot. Even if I am wrong about either of those points the Petitioner has failed to persuade me there is a 'powerful' reason to step outside the Churchyard regulations and permit two flower holders on this grave. Accordingly permission will be granted for only one flower holder on the memorial to Dawn Marie Hardy.

Shape of headstone to include two abutting hearts emerging above the upper surface and each bearing separate initials in cursive script

The Churchyard regulations ordinarily prohibit the use of a heart shape upon headstones. The petitioner has shown that in this churchyard there are a modest number of headstones where a heart shape is used (at least one example of which is wholly inappropriate!) However, not one example has a single heart shape, let alone two, emerging from the upper edge of a conventionally shaped headstone. Generally, but not exclusively, the examples of the use of heart shapes have been engraved or etched into the surface of the headstone. It has not been argued that the proposed design is "a fine work of art in its own right" and I would not have found it to be so even if argued. The two hearts abutting each other and each containing cursive initials give the impression of a tattoo or similar representation, not ordinarily what would be expected within a Christian burial ground. In this matter the Petitioner has not satisfied the burden under the third ground of the Kingswinford judgment of showing 'there are so many examples in the churchyard concerned that it would be unconscionable to refuse consent for one more'. I turn then to the fourth ground of the Kingswinford judgment, that 'there are compelling personal or other circumstances suggesting that a faculty should nevertheless be granted'. The petitioner has argued "*we are not trying to honour GGH but are trying to show a mother's love 'DMH' for her daughter 'GGH' and this will always be a reminder of that love for Georgina whenever she visits her mummy*". I am afraid that argument is not compelling. Dawn Marie Hardy's love for her daughter is already attested by the use of the expression 'Mummy', the use of the expression 'Beloved 'Mummy' of Georgina Grace' and through the additional text of love and regret authorised above. Unfortunately, in my judgment, to authorise the use of a heart emblem bearing the current initials of Dawn Marie's daughter would be inappropriate. It would be akin to honouring or causing focus to be placed upon someone not interred within the grave, rather than suitably and informatively marking the last resting place of Dawn Marie Hardy. Further, no powerful argument has been presented why a headstone made unusual by having two abutting hearts rising above the upper surface should be permitted outside the Churchyard Regulations. I remind myself that it was principally owing to the use of two protruding and abutting hearts that the elected representatives of the Parish felt unable to support this

petition. Accordingly permission is not granted for the unusual shape of headstone requested.

19. By reason of the matters set out above, the faculty as requested will not be granted. However, I have found that it would not be inappropriate to grant a faculty for a memorial to Dawn Marie Hardy. The headstone may be made of polished grey granite and may have silvered lettering (although the Petitioner is referred to comments under the appropriate sections of paragraph 18). The headstone can be set upon a plinth, but may feature only one flower holder not two. The headstone may feature the text submitted in the format proposed, with the word 'Mummy' appearing in speech marks. In the circumstances I will also grant permission for the headstone to feature (should the petitioner so wish) a single engraved heart shape picked out in white or silver (no greater than five inches in height or six inches in width). This may not include any lettering and must not protrude outside the ordinary shape of the headstone.

A faculty for a memorial will be granted if it complies with the matters set out above. In order for the faculty to be granted the petitioner must within thirteen weeks (or such other extended reasonable period as is agreed with a representative of the diocesan registry, but no more than thirty weeks from now) submit a revised design for the proposed memorial that has been agreed with the Incumbent of Bulkington St James and, if the incumbent considers it appropriate, or in the case of an interregnum, by a simple majority of the Parochial Church Council. The revised design will then be returned to this Court for ratification.

20. Save for the ordinary fees required in pursuing a private petition for erection of a memorial there shall be no additional order as to costs.

Glyn Ross Samuel
Deputy Chancellor
23rd August 2018.