

IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD

IN THE MATTER OF ST GILES, CROXDEN

ON THE PETITION OF MRS MARION KENT

JUDGMENT

1. This is a judgment in respect of a petition dated 7 October 2025 made by Mrs Marion Kent for a faculty to introduce a memorial which includes a headstone, kerbs and chippings. The memorial is sought to commemorate Mrs Kent's late son, Thomas Henry Kent. The circumstances in which Mrs Kent has cause to seek a memorial in respect of Thomas are exceptionally tragic. In a letter signed by Mrs Kent and others (with the same date as the petition) it is explained that Thomas was killed by a hit and run driver on 24 February 2022 whilst walking home. He was buried on 9 April 2022. The letter goes on to articulate the devastating impact which Thomas's death has had on the Kent family and refers (heart-breakingly) to the fact that, as well as two brothers, Thomas left a *fiancée*, Melissa, and a young son, Charlie, who was only 4 ½ at the time his father was killed. Thomas was just 32 years old when he died.
2. The letter in support of the petition states that the Kent family have lived in Croxden since 1926. It goes on to explain that the kerbs will act as a boundary to give a sense of order and respect to the site but also to help protect the grave from encroachment or damage from maintenance equipment. The point is made that many graves situated within the Churchyard have kerbs (the nearest being approximately 12 metres away). The letter also states that snowdrops, particularly significant to Thomas, would be planted to come up through the decorative chippings.
3. The issue in this case is whether or not I should grant a faculty for the memorial as sought in the petition.

4. The petition has the unanimous support of the PCC, and although public notice has been given no individual has raised any opposition to it. However, the DAC does not recommend approval. The Notification of Advice states as follows:

In accordance with the following comments by the Archdeacons corporately, consulted under the delegated authority faculty procedure:

'The request for kerbs and chippings is outside the regulations. The plan included suggests that this grave is in a different section of the churchyard from most of the other kerb-surrounded graves (which also appear significantly older), and so we cannot use the argument for consistency within an existing area. There is one other kerb-surrounded grave at the other end of that section of the churchyard, but in between are several rows of memorials which appear to be compliant with regulations.

Practically, it does seem likely that this one enclosure would make maintenance of the churchyard as a whole more difficult – perhaps only slightly in the short term – but it is likely that other similar enclosures would be requested in future, and the difficulty would increase.

The pastoral situation, whilst tragic, is not significantly different to others.

No case has been made as to why kerbs and chippings would be a more suitable memorial than the headstone alone (which we would recommend granting permission for).'

5. St Giles is a late Victorian grade II listed Church of relatively modest size in the village of Croxden, which is itself notable for the impressive remains of an abbey (now under the care of English Heritage).
6. Helpfully, the petition was supported by a plan and a number of photographs. However, I also visited St Giles myself on the evening of 22 July 2026 in order to better understand the site and its position; it is rural, peaceful and picturesque. There are several large trees in the area of the Churchyard which is at the front of the Church (which has a view over the remains of the abbey). This area was rather overgrown on the occasion of my visit and it is the location for the older headstones

and other memorials; it is right to note that there are several with kerbs. The area of the Churchyard at the back is more open and mown. I counted 42 headstones, just one of which is accompanied by kerbs; it commemorates a husband and wife who died in 1963 and 1976 respectively – and, I should add, is located in a relatively narrow strip of land between the Church on the one hand and a path on the other.

7. The Diocese of Lichfield Churchyard Regulations (made on 2 April 2026) make plain that a memorial which includes kerbs requires a faculty; in this respect the Regulations are no different to those which preceded them (i.e. made by Chancellor Eyre on All Souls' Day 2013).
8. There are any number of judgments on memorials; particularly notable is the decision of the Court of Arches in Re St Giles, Exhall [2021] EACC 1, in which important guidance was given, helpfully summarised by Chancellor Hodge KC in Re St Mary the Virgin, Aldworth [2026] ECC Oxf 10 at [8] as follows:

(1) As is the case with any faculty petition, the burden of proof lies on the petitioner to show why a faculty should be granted to authorise the particular proposed memorial.

(2) The terms and content of the applicable churchyard regulations will, of course, be a relevant factor – often highly relevant, and doubtless, on occasion, determinative. But they will only be one of the constellation of infinitely variable factors which the court must consider on a case-by-case basis.

(3) The court should approach the suitability of the proposed memorial on its own merits, the only constraint being the inability of the court to permit something which is contrary to, or indicative of any departure from, the doctrines of the Church of England in any essential matter.

(4) Mere non-compliance with the regulations, of itself, can never be the only basis on which to refuse a faculty petition. It is necessary to consider whether the particular memorial in question is inherently desirable, or at any rate not undesirable, whether or not it complies with the standards of the regulations.

9. It is also important to note paragraph 8.7 of Re St Giles, Exhall, in which the Court of Arches affirmed that a monument has a three-fold purpose – to honour the dead, to comfort the living and to inform posterity.
10. I also remind myself of the wise words of my predecessor as Deputy Chancellor of this Diocese (now Chancellor Verduyn) in Re St James the Apostle, Newchapel [2022] Ecc 7 at [7] that Churchyard Regulations are there as a guidance and not a straitjacket.
11. There are numerous judgments which specifically consider the matter of kerbs. Those summarised below give a reasonable flavour of the range and variety of those judgments over the last decade.
12. Re All Saints, Bransgore [2017] ECC Win 3 was a case in which Chancellor Ormondroyd declined to grant permission in respect of petitions for memorials including kerbs and chippings. The judgment records that the relevant regulations in Winchester forbade both in the absence of exceptional circumstances, and that the DAC was opposed (on both aesthetic and practical grounds – including maintenance). The Chancellor concluded that, in fact, the kerbs would not pose any immediate problem for maintenance and had that been the only concern he would have been minded to grant the petitions, however, he observed that further kerbed surrounds would detract from the rural character of the churchyard and harm its character (the small number of plots with kerbs having been present for some time, were grown through with grass and unobtrusive).
13. Re St Michael & All Angels, Horton [2018] Ecc Lic 6 is a decision of Chancellor Eyre QC in this Diocese of Lichfield. A faculty was sought to add kerbs to an existing memorial, in a Churchyard in which there were some other kerbed memorials but none in the row containing the grave in question. The Chancellor noted at [10] *“There are repeated instances of consistory court decisions in which chancellors have taken a firm line against applications for the introduction of kerbs around graves and where they have upheld the stance of Church Councils who have sought to resist such proposals. This is because of a general understanding that the presence of kerbs around graves can impede the maintenance of a churchyard.”* On the basis of the

adverse impact of maintenance and the opposition of the PCC, the faculty was refused.

14. In Re St Nicholas, Great Coates [2020] Ecc Lin 2 Chancellor Bishop considered a petition for the laying of kerbs which were to be flush with the ground. He accepted that it would be possible to mow over the area of the kerb (at least until it became sunken or cracked). However, he explained at [19] that his fundamental concern about the use of kerbs “*is that it is a tight delineation of the grave creating thereby a border between it and the rest of the churchyard.*” He went on to conclude at [20] that kerbs would have the effect of creating a series of individual memorial plots, conflicting with the sense that each grave and its memorial was contributing to the overall peace and tranquillity of the whole Churchyard (which, as a whole was a place set apart for sacred use).
15. In Re All Saints, Calverton [2021] ECC Oxf 7 a retrospective faculty was sought to retain a memorial with kerbs and gravel. Chancellor Hodge QC agreed with the assessment of the DAC that the retention of the kerbing and stones would have an adverse impact upon the appearance of the churchyard and strongly detract from its open, rural appearance. He stated that the mere presence of a few other kerbed memorials, of itself was not a sufficiently good reason for authorising a further kerbed memorial (there not being so many examples that it would be unconscionable for him to refuse to consent to one more). He also highlighted the adverse impact that a proliferation of kerbed graves would be likely to have on the ability of the Parish to maintain the entire Churchyard in the future.
16. A different conclusion was reached by Chancellor Hill QC in the short judgment given in Re All Saints, Darton [2021] Ecc Lee 6, but the Churchyard in that case (and the area surrounding the relevant grave in particular) contained many examples of graves with kerbs, indeed, it was said that they appeared to be the norm rather than the exception.
17. In Re St Peter & St Paul, Shorne [2022] Ecc Roc 1 Chancellor Gallagher considered a proposal to use kerbstones and chippings (not permitted under the relevant Regulations and opposed by the DAC). The Chancellor noted that although there were some other graves with kerbstones, they had been introduced without permission and

the Incumbent and PCC were trying to regularise the position by getting them removed, which (so it was said) should be applauded and supported by the Consistory Court. Needless to say, the petition was refused.

18. Re St Nicholas, Earls Croome [2022] EWHC Wor 9 was a very sad case in which a kerbed memorial was sought to commemorate a young lady who had died at the age of just 29. The Incumbent and DAC were supportive but the PCC divided. The points made in support of a kerbed memorial were that the Deceased died young in tragic circumstances so as to justify a more substantial memorial, the family's particular wish to discourage anyone from walking over the grave, the existence of other kerbed graves, and the European Heritage of some of the Deceased's family where (it was said) there is a culture of more dramatic monuments. No case law was cited, but Chancellor Humphreys was persuaded that these reasons taken together were sufficient to justify a departure from the Regulations.
19. Re St Mary, Fawkham [2024] Ecc Roc 1 is a decision of Chancellor Willink in which both the PCC and DAC opposed a petition for permission to be granted in respect of a memorial including headstones. I note that the PCC's view, supported by the DAC, that kerbstones should not be permitted was described at [19] as commonly the position across the Church of England, notwithstanding that historically they may have been more common. The PCC's position was that kerbs would *not* hamper the maintenance of the Churchyard. Nevertheless, the Chancellor was not persuaded that the petitioner had put forward a good reason for the proposed kerbstones and the petition was unsuccessful in this respect.
20. I note a trio of decisions made in 2025 in the Diocese of Sheffield each of which touched on the question of kerbstones:
 - 20.1. In Re St Mary's, Catcliffe [2025] ECC She 2, Chancellor Singleton KC permitted a memorial with kerbstones in respect of a baby boy. She observed at [4] *"Diocesan chancellors are only too aware of how unfair it seems when someone has just suffered a tragic loss to find that the memorial they have chosen and designed cannot be introduced because it does not comply with the rules. That disappointment is felt more acutely when there are a large number of apparently unlawful memorials in the churchyard. Often, as here, those*

other memorials are obviously in breach of the rules which the proposed memorial infringes more subtly. Unfortunately, as has been explained in a number of judgments, the presence of memorials which break the rules does not justify the introduction of other non-compliant memorials.” The Chancellor went on to state at [6] that the main reason for the prohibition of kerbstones is that they make the maintenance of the grass in churchyards rather difficult. But, she concluded, given the number of other kerb sets in the churchyard that consideration (i.e. of maintenance) had rather less weight and they would be permitted;

20.2. Deputy Chancellor Spear decided Re St Mary’s, Catcliffe [2025] ECC She 5. She set out that the Diocese of Sheffield Churchyard Rules state that kerbstones are not normally allowed but may exceptionally be permitted where kerbstones are already common in that area and the introduction of the proposed kerbstones would have no adverse effect on the maintenance of the Churchyard. She decided that as there were a number of memorials with kerbstones in the Churchyard and some in close proximity to the grave in question, they would be permitted;

20.3. Deputy Chancellor Spear’s decision in Re St Mary’s, Catcliffe [2025] Ecc 6 is, unsurprisingly, to similar effect.

21. Re All Saints, Rangemore is a decision of this Court by Chancellor Verduyn and pertains to a memorial to Dave Myers – one half of the “Hairy Bikers”. The petition sought a headstone (wider than ordinarily permitted) and full kerb (the latter being described as a flat grave covering (albeit raised somewhat off) the ground). It was supported by the PCC but not recommended by the DAC, albeit the latter had i) apparently accepted that Mr Myers warranted a memorial reflecting his public standing and outside the strict constraints of the Regulations and ii) suggested that the flat part of the memorial should be flush with the ground. The Chancellor noted that a horizontal feature was uncontroversial and that a raised platform may be more stable and less liable to create a trip or other hazard, that in respect of maintenance the Parish was supportive, and that there were other comparable raised monuments. Accordingly, save as to the finish of the granite, the faculty was granted as sought. The Chancellor concluded by stating at [16] “*I do not doubt that the monument will be much visited and sufficiently conspicuous to be*

found, without overwhelming other memorials or the listed features of the church and churchyard.”

22. Lastly, Re St John the Evangelist, Perlethorpe [2025] ECC S&N 4, a decision of Chancellor Ockelton, which, considered a proposed memorial of some considerable size incorporating kerbstones (which he refused to allow). Of particular note, is the following:

9. In determining whether and to what extent the present Petition should be allowed I am concerned only to a very limited degree with the memorials erected by previous generations. Today we do not consider that the rich or important are entitled to a larger memorial than others; and we have in our lifetimes seen that the graves of peers of the realm, prime ministers and archbishops have been appropriately marked with modest memorials. Kerbstones around graves in churchyards were frequently allowed in the past: I doubt if there is any Diocese where they are allowed today.

10. There are two good reasons for that. The practical one is that they make maintenance of the churchyard much more difficult. In fact at Perlethorpe the grass cutting is done by grazing sheep (not very effectively if the photographs accompanying the Petition are to be trusted) but that arrangement might cease at any time, and kerbs and motor mowers do not mix. The second reason is to my mind more important. A kerb tends to suggest that the people buried in the grave, or their family, have some right over the land in which the burial took place. Sometimes the part within the kerb is separately treated, for example with gravel or a stone base; always there is an implied inhibition of walking within the kerbed area. That is all in principle quite wrong. The whole of the churchyard is dedicated to God and subject to that is an asset of the whole community. Nobody has any individual ownership in parts of it. Even a place where a body is already buried may be re-used for burials after an appropriate period, and, even before that simply forms part of the land that is the churchyard.

23. I consider the following to be correct as a summary:

23.1. It appears to be common (and perhaps universal) that kerbs are prohibited, as a matter of general principle, in diocesan churchyard regulations – in other words a memorial which includes kerbs requires a faculty;

- 23.2. Although commonly employed in former times, kerbs have fallen out of fashion;
- 23.3. The primary problem with kerbs, identified in the case law, is that they can make maintenance of a churchyard more difficult than it would be otherwise. That said, there are cases in which it is accepted that, on the facts, there would be no real impact on maintenance;
- 23.4. Concerns have also been expressed as to the effect of kerbs on the character of a churchyard. Absent any concerns expressed by the PCC as to maintenance, the effect on the character of a churchyard is likely to be a highly significant factor;
- 23.5. It has been suggested that an important reason for banning kerbs is that it implies a form of ownership or right over the enclosed land. Whilst those views deserve very great respect, I am not myself persuaded that they are correct. There isn't, to my mind, anything inherently, theologically or ethically wrong with a kerbed memorial *per se* and the suggestion to the contrary is not one which (as far as I can discover) has been widely adopted in the case law;
- 23.6. The presence of other monuments which include kerbs in the churchyard and (in particular) in close proximity to the grave in question is a factor (sometimes of decisive importance) in justifying a departure from the general prohibition.
24. Mrs Kent, as the petitioner in the present case, indicated that she wished to have the matter dealt with by written representations but enabling her to lodge further representations before the making of a decision. There has been a certain amount of correspondence, through the Registry, after I indicated my provisional view that permission should not be granted in respect of kerbs and chippings. Mrs Kent indicated that the family would be content for there not to be chippings but was steadfast in her desire for there to be kerbs (within which there would be seasonal planning including snowdrops). She pointed out that having a kerb memorial, to keep Thomas safe and enclosed, was the last thing that she or the family could do for him. She explained that the loss of Thomas had been catastrophic for her family and wished to erect the memorial sought as a fitting tribute to him.

25. I confess that I have not found this a very easy petition to determine, which to a degree explains (but does not justify) why there has been something of a delay in producing this judgment and for which I apologise.
26. The case in favour of granting a faculty so as to permit the memorial as sought – i.e. to include kerbs - seems to rest primarily on these points: the PCC are supportive of it; there are other kerbed memorials in the churchyard; the particularly tragic circumstances of the case - in which a man in the prime of life has been most cruelly taken from his family to their absolute and continuing devastation - and the family's belief that the proposed memorial is the best way to honour Thomas's memory.
27. Conversely, the case against granting a faculty is as follows: Churchyard Regulations in this Diocese of Lichfield and across the Church of England have long been disapproving (with varying strength of feeling) of kerbs, which, although popular in former times, are not now generally permitted under the faculty jurisdiction unless a special case is made out; although there are a few kerbed memorials in the Churchyard, they are (with one exception) located away from Thomas's grave; there appear to be no new kerbed memorials at all – the one kerbed memorial at the back of the Church would seem to be over half a century old; permitting a new kerbed memorial would detract from the Churchyard and the Church; and granting permission would to some degree create a precedent from which it would be difficult rationally to depart.
28. In circumstances where the PCC supports the faculty (as in the present case) it seems to me that the maintenance of the Churchyard in general should not weigh with the Court to any significant degree. A PCC may of course agree to something which, in time, it causes to regret, nevertheless, I give the consideration of maintenance little weight in the present case.
29. To my mind the most powerful arguments against kerbed memorials are set out in the perceptive judgments of Chancellor Ormondroyd's decision in Re All Saints, Bransgore and Chancellor Bishop's decision in Re St Nicholas, Great Coates. In the former Chancellor Ormondroyd explained that further kerbed surrounds would detract from the rural character of the Churchyard and begin to isolate the Church from its wider setting and referred to chippings as "*a further urbanising and discordant feature*". Chancellor Bishop was also concerned at the interaction between memorial and Church and

Churchyard and considered that delineating the graves by means of kerbs would conflict with the sense of the individual contributing to the overall peace and tranquillity of the whole. I would not go quite as far as Chancellor Ockelton in Re St John the Evangelist, Perlethorpe at [10], albeit what he says in the preceding paragraph that today we do not consider that the rich or important to be entitled to a larger memorial than others is, in my view, obviously correct. I am very doubtful whether the indication in Re St Nicholas, Earls Croome that the death of a parents' child as a young adult justifies a more substantial memorial than the Regulations would otherwise allow.

30. My provisional view in this matter, having considered the papers, was that a faculty should be refused in respect of the kerbs. That view was reinforced having conducted a site visit, which, I suggest is an invaluable exercise in a difficult case such as this. Having seen the setting of the Church, Thomas's grave, the position of other memorials (kerbed and otherwise) I am led to the firm view that it would not be right to grant a faculty for a kerbed memorial. It seems to me that it would jar with the open and rural setting of the rear of the Churchyard in such a way as to make it unjustifiable. As I have explained above, the grave is at the rear of the Church, which is an open setting in which there is but one (relatively old) kerbed memorial; it does not seem to me that after more than half a century I should now permit another kerbed memorial.
31. I recognise, of course, that the PCC are supportive of the petition, and that support deserves respect. But, on the other hand, the DAC oppose it. The particular tragedy of the situation and the wishes of the family to commemorate Thomas in a manner which they consider best also have to be weighed carefully in the balance. However, I do not think those factors are such as to counteract the points made above, indeed, were it not for the particular tragedy in this case, the case against a kerbed memorial would have been overwhelming and the petition refused in short order.
32. I am content to grant a faculty in respect of the material chosen, the lettering, the symbol and the substantive wording. However, the headstone must be of a shape and size which is set out in in the Churchyard Regulations. The petition, insofar as it seeks permission for kerbs and chippings, is refused.
33. I realise that this judgment will come as a profound disappointment to the petitioner and her family. I repeat my heartfelt sympathies in respect of the terrible loss which they have

suffered.

CHRISTOPHER BUCKINGHAM

DEPUTY CHANCELLOR

21 September 2026