

In the Consistory Court of the Diocese of Worcester

Archdeaconry of Dudley: Parish of Kidderminster St George: Church of St George

Faculty petition 11-60 relating to a new memorial (Simpson)

Judgment

Introduction

1. This is a petition for a new memorial, of the form known as a kerb set, to be erected in the area to the west of the St George's Church, between it and the road. It is to be on the site of the grave of Alexander and Kathleen Simpson, the parents of Mrs Evans.
2. Alexander Simpson died on 1 May 1988, aged 59, and a memorial was erected in November 1989, with the permission of the then incumbent. I have been helpfully supplied with a photograph of that earlier memorial, which took the form of a rectangular area of white chippings, surrounded by a border of pre-cast concrete edging of a pattern that is, I believe, known as rope-work. It appears that an additional small monument for Ms Bernie Simpson, the daughter of Mr and Mrs Simpson and sister of Mrs Evans, was added at some time after his death in 2003.
3. The present incumbent has authorised the amendment of the existing headstone, to record the details of Mrs Simpson, and a new plaque, in memory of Bernie Simpson.
4. However, in addition, Mrs Evans wishes to replace the rope-work edging with a new kerb set, containing chippings; and the incumbent has declined to approve the latter, as it is not within the powers delegated to him. The matter accordingly comes before this court, as a petition for a faculty. The existing kerb-set would be disposed of.

The petition

5. The present petition has been pursued by Quality Memorials, who state that they fully appreciate that the parish is only following the Diocesan guidelines. But they point out that a number of other memorials have been introduced into this churchyard that are similar to the one now proposed. Whilst I was inspecting the churchyard, I happened to meet Mrs Evans, who explained that she wished to have in place a proper memorial for her parents and her sister. She mentioned that there had been in place previously a kerb set with chippings, and that she now wished to formalise that arrangement. She believes that what she is proposing would be a vast improvement compared to what was there before.

6. The parish has declined to approve the kerb-set; but it has accepted the idea of an additional flat stone for Bernie Simpson in addition to the headstone – albeit without any great enthusiasm. The incumbent explains that he inherited a churchyard where a fair number of graves had been installed with kerbstones – none, apparently, with permission. The parish has also recently submitted its own churchyard guidelines for approval.

7. The Diocesan Advisory Committee has declined to recommend the proposal, on the basis that it does not comply with the graveyard rules; it also suggested that the additional plaque for Bernie Simpson, intended to be placed horizontally within the kerbed area, should instead simply be set in the ground immediately in front of the existing headstone.

8. The Archdeacon has been consulted, but has not expressed a view. And the petition has been duly advertised, and no representations have been received as a result.

9. All parties are content that the matter should be dealt with on the basis of written representations.

The character of the churchyard

10. I have visited the churchyard, and observed the site of the proposed memorial. I observed that there were in general terms relatively few memorials with kerbs and chippings in the area to the west of the church and the church hall, between them and the road – except for half a dozen or so erected in the mid-1980s.

11. I also inspected the other memorials to which reference has been made by Mrs Evans. There are on the other hand a significant number of such memorials in the area to the north of the church, particularly (but not exclusively) towards the eastern boundary. Some of these have been erected relatively recently.

Approval of kerb sets

12. I issued on 1 January 2004 an instrument delegating to incumbents the authority to approve the erection of certain monuments in their churchyards – in practice, those in the various categories that are routinely found in churchyards throughout the Diocese. These are set out in the Diocesan Guidelines, issued at the same time. In particular, this arrangement only allows an incumbent to approve the erection of a memorial provided that it is in the form of a vertical headstone, a vertical headstone on a horizontal stone base, a horizontal stone slab, or a simple timber cross. The introduction of a kerb-set – either of the kind that was in place until recently or of the kind now proposed – would come within none of those categories, and would therefore be lawful only if authorised by faculty.

13. I am not aware of any formal instrument of delegation in place prior to 2004 – but the Diocesan Guidelines issued then were very similar to those issued by my predecessor, and indeed very similar to those applying in all the other dioceses in England.

14. I am not entirely clear whether the approval of the previous incumbent related only to the headstone or whether it also purported to authorise the chippings and the kerb-set. But in the absence of any written authority indicating to the contrary, he had no power to authorise the introduction of the memorial previously in place to commemorate Mr and Mrs Simpson (other than the headstone). And it is undoubtedly correct that the present incumbent has no power to authorise the memorial now proposed, including the new kerb-set.
15. The underlying rationale behind the rules referred to above was set out in a booklet entitled *Churchyard Memorials: a Guide for the Bereaved*, also issued by me in 2004. This states as follows:

“The headstone

Churchyards are, usually, full of character. But, like people, they are all different. Just as a memorial that might be entirely suitable for one person would be altogether wrong for someone else, so a headstone that is appropriate for one churchyard may be unsuitable for another. And the same is true in some cases as between different parts of the same churchyard. So the first principle is that

A memorial should respect its surroundings.

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.

In practice, this will mean that the choice of stone for a memorial, and its size, thickness, shape, and general design, should only be finalised after looking carefully at the churchyard as a whole, and in particular at the part of it containing the grave under consideration. 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.

Experience suggests that stones used in buildings nearby or traditional in the local area, or stones closely similar to them in colour and texture, are usually much more appropriate. Black stones, on the other hand, and most marbles and granites, and stones with a highly polished surface, are less likely to be suitable in most contexts; and memorials of synthetic stone or plastic are almost never

likely to be. The choice of lettering, too, needs to be made in the light of what has been used nearby – in some churchyards, for example, gold lettering may be appropriate, but in most it will not; and plastic lettering will always be unsuitable. Photographs or portraits of the deceased are almost always inappropriate, as they would be totally out of character with an English churchyard.

The Vicar is only allowed to approve monuments which comply with the relevant Guidelines. These will be either guidelines applying specifically to the churchyard concerned or, if there are no such specific ones, the general guidelines applying throughout the Diocese. The Vicar (or someone in the parish to whom he or she has delegated this task) will be aware of the relevant Guidelines and, just as important, he or she will be familiar with the churchyard, and with the monuments in it; and able to guide you as to what would or would not be suitable in your particular case.

Future maintenance

Churchyards have to be maintained by the parish for centuries to come. This means that memorials should be designed to allow for that continuing maintenance to be as simple as possible, which is for everyone's benefit – you would not wish to find the churchyard full of untidy and unkempt graves when you return to visit the one you have introduced. So the second principle is that:

A memorial should not impose an unreasonable burden on future generations.

Thus, normally, graves should not contain kerbed surrounds, with or without railings or chains, as these impede the cutting of the surrounding grass. This is also part of harmonising with others nearby; and it may not apply, therefore, if there is a tradition of such graves, or other types of surrounds, in the immediate vicinity of the grave in question. Here too, the relevant Guidelines (see above) will set out what may be approved by the Vicar. And, again, the Vicar should be consulted for guidance on what is appropriate in your case."

Application to the present case

16. The principles set out in the *Guide for the Bereaved* are as applicable now as they were in 2004. And on the basis of those principles, were the present petition to be for a new memorial at this site, of the design proposed, it would not be allowed.

17. It is true that there are in the churchyard at St George's a number of memorials with kerb-sets, including several relatively recent ones; but most of them are towards the eastern end of the churchyard. And it appears that some, at least, may be

unauthorised. It is true too that there are a few in the western part of the churchyard, between the church and the road, but they were all introduced within a relatively short period, and they would not justify the introduction of a new kerb set now. A new kerb-set memorial at the location proposed would thus not respect its surroundings.

18. And any memorial in the form of a kerb-set does make it more difficult for those responsible to maintain a churchyard, which is why they are generally discouraged. That applies to this one just as to any other.

19. However, this petition is not for a new memorial, but for an alteration to an existing one. It appears that the existing memorial was introduced in or around the late 1980s, a period when several other memorials with kerb-sets were also introduced in this part of the churchyard, apparently with the approval of the incumbent at the time. For the reasons explained above, I suspect that such authorisation as may have been given was probably unlawful. But it would clearly be inappropriate to insist on the removal of all of those memorials, or their alteration so as to comply with the Guidelines. And on the same basis it would be inappropriate to insist on the removal or alteration of the memorial that has for the last twenty years or so been in place to commemorate Mr and Mrs Simpson and their daughter.

20. The difference between that previous memorial and what is now proposed is largely a matter of personal taste. Neither complies with the guidelines, for the reasons set out above. But what is proposed would not be any more obtrusive (or at any rate would be not much more obtrusive) than what was there previously – indeed it may be, as Mrs Evans suggests, an improvement. Nor would it impose any significantly greater maintenance burden. If the present petition were to be refused, it would be unreasonable not to allow the previous memorial to continue in place; and on that basis there seems to be no basis on which to refuse the proposed memorial.

21. However, I make it plain that this decision is not to be considered as in any way setting a precedent for the introduction of further memorials with kerb-sets – either in this churchyard or elsewhere.

22. A faculty should therefore issue for the introduction of proposed memorial, and the disposal of the one previously in place.

DR CHARLES MYNORS

Chancellor

22 January 2012