

IN THE CONSISTORY COURT OF THE DIOCESE OF CARLISLE

RE Proposed Memorial – Holy Trinity Church, Langdale

JUDGMENT

Delivered on 8 January 2025

A. Introduction

1. By a petition dated 5 November 2024 Dr. Wm Andrew Heaton seeks permission to introduce a memorial headstone into the churchyard at Holy Trinity Church, Langdale.
2. Dr. Heaton’s application is opposed by both the Parochial Church Council (“PCC”) and the Diocesan Advisory Committee (“DAC”), and the matter now comes to me for decision.
3. This Judgment sets out the reasons why I have decided to refuse Dr. Heaton’s application.

B. Background

4. Dr. Heaton’s proposal is to introduce a headstone commemorating certain family descendants and heirs of the late John Dawson Thompson: namely Joyce Victoria Priestley and James Gordon Priestley. They died, respectively, on 3 April 2006 and 6 March 1992. Both were cremated, and their ashes scattered at the Walthwaite Estate, Langdale. The proposal is for a headstone to be positioned among other graves of other members of the Thompson family.

C. Churchyard Regulations

5. Regulation 2.2.1 of the Carlisle Diocese Churchyard Regulations provides that:
“It is unlawful for a memorial to be introduced into a churchyard without permission. Without such permission the relatives of the deceased or any other person have no right to erect a memorial over the grave.” (emphasis added)
6. It is implicit in this that a memorial ordinarily commemorates the person or persons buried in a grave beneath it. Similarly, where a person’s ashes are buried in a churchyard, they are commonly commemorated by their name being added to a designated stone.
7. Since Mr. & Mrs. Priestley’s ashes are not buried in the churchyard at Holy Trinity Church neither of these possibilities is engaged. For this reason, it is not open to the Incumbent to deal with the matter under delegated authority, and I must rule on the application.

D. Discussion

8. Dr. Heaton makes a case that both Mr. & Mrs. Priestley were members of the Church of England, and emphasises the strong connection that they had to the parish, and specifically to the Walthwaite Estate, where their ashes were scattered.
9. Furthermore, in reaching my decision I have read, and taken into account, the *“Form for PCC to apply for Preliminary Advice”* submitted to the DAC by Dr. Heaton and Isobel Heaton. That gives further details of their application, and the reasoning for it.
10. The DAC considered the application at their meeting held on 17 October 2024, and their advice to me is that they do not recommend these proposals for approval. This is for four stated reasons, being (to quote from the Form 2):
“Whilst having understanding for the petitioners wish for the memorial in the churchyard, the committee unanimously judged that the private application

requesting a memorial should not be recommended. This was for the following principal reasons:

1. *There was an assumption that the family members for whom the memorial is intended could have requested to be buried in the churchyard, but instead - no doubt after some careful and considered thought - chose to have their ashes interred at the family property. It is therefore, unfortunately, not possible to know if they would desire to be memorialised in the churchyard.*
 2. *Picturesque churchyards throughout the Lake District have always been popular resting places, but the space that is available should - for pragmatic and practical reasons - be retained for burials rather than family memorials.*
 3. *Individual memorials following the [interment] of ashes are strongly discouraged in churchyards across the Diocese¹ and in this case the requested memorial marks neither a grave nor a burial of cremated remains.*
 4. *Whilst the DAC were thankful that the petitioner intended for the proposed memorial to stylistically match the existing memorials in the churchyard, it was noted that the stone would take years to weather, and the silver highlighted lettering could be conspicuous against its weathered neighbours.”*
11. At a meeting held on 20 November 2024, the PCC discussed the application and unanimously agreed with the DAC’s views, and for the same reasons as stated by the DAC. The PCC did say that it would support engraving the reverse of an existing stone, if that proved to be possible and was agreed by the DAC. That is a point to which I shall return.
12. I have considered how similar cases have been dealt with in other Dioceses. In the first place there is a Judgment dated 6 April 2024 of The Revd HH Judge Mark Bishop, Chancellor of the Diocese of Lincoln *In the Matter of St. Guthlac, Market Deeping* [2024] ECC Lin 2. He permitted an inscription to be added to an existing

¹ Although it is right to note the terms of regulation 3.1.2 of the Churchyard Regulations, which provide that “*Parishioners [including all those on the Church Electoral Roll] and others who die in the parish, have a legal right to the burial of their cremated remains if there is still space available and if the churchyard has not been closed by Order in Council.*”

gravestone to commemorate the applicant's father, who was interred elsewhere. That, however, was a proposal to add wording to an existing stone and not, as here, an application to introduce a new stone solely commemorating persons who are not buried in the churchyard in question.

13. Secondly, there is the decision of the Worshipful Chancellor Hodge, KC in the Consistory Court of the Diocese of Oxford (*In the Matter of St. Nicholas, Tackley* [2022] ECC Oxf 4). The case concerned a proposed memorial to a soldier whose place of burial was not exactly known. That, again, is rather different to the present facts because it was known that the Private Walker was buried somewhere in the churchyard in question: just not precisely where.
14. Taking all these matters into account I ~~reach the~~ conclusion that this application should be refused. That is not because I doubt the sincerity of Dr. Heaton's understandable wish to commemorate Mr. & Mrs. Priestley. Rather, it is because of the reasons set out in the DAC's Notification of Advice.
15. In particular, it seems important to me that there is no positive evidence that Mr. & Mrs. Priestley themselves wished to be commemorated in the way now proposed. They could have made that choice: but instead elected to have their ashes scattered elsewhere. Furthermore, the proposed memorial would not stand at their burial place in the ordinary way.
16. Accordingly, I direct that this faculty should be refused.

E. Postscript - Modified Proposal

17. Since Dr. Heaton's petition was submitted, he has made a revised proposal: whereby an inscription might be added to an existing headstone. I have seen an email dated 18 December 2024 sent to the DAC by the memorial mason. Apparently, it would not be possible for the existing stone to be inscribed on its reverse, so what is suggested is that an additional white marble memorial plaque should be fixed to that stone bearing the proposed inscription.

18. I do not have any such application before me for decision. Nonetheless, it may assist if I indicate some provisional views I have in the matter, without reaching any final judgment.
19. In the first place I will simply say that it seems to me that this revised proposal faces the same difficulties as are stated in paragraph 15, above.
20. Secondly, I refer to paragraph 2.2.1 of Appendix B to the Diocesan Graveyard Regulations, which limit the materials from which memorials may be made. This rule reads:

“Materials must be of natural stone or hardwood. Stone must be sandstone, limestone, granite or slate quarried in the UK. The stone should also be in keeping with the particular type and colour of the stone of which the church and any surrounding buildings are built. No memorials or vases shall be of marble, synthetic stone or plastic.” (emphasis added)
21. I have read a suggestion that there is an existing marble gravestone to which this plaque might be added. If so then that might possibly lead to a different conclusion: but would still leave the difficulties already noted, above.
22. I would add that for each of these reasons I do not consider that the Incumbent would have delegated authority to permit the introduction of such a plaque into the churchyard.

James Fryer-Spedding

Chancellor of the Diocese of Carlisle

8 January 2025