

IN THE CONSISTORY COURT OF THE DIOCESE OF EXETER

In the matter of Petition for Memorial to David George Clegg

Application reference: 021/20

JUDGMENT

1. By a Petition dated 4 September 2020 an application is made on behalf of Mr Andrew Clegg for a Faculty permitting the erection of a memorial stone marking the grave of his deceased father, David George Clegg in the churchyard of St Margaret’s Church, Northam. The proposed headstone is to be in grey honed Welsh slate and has been commissioned from Artisan Memorials Ltd in Kent.
2. The deceased was a local builder and stone-mason. It is proposed that there should be an inscription on both the front and back of the stone with that on the front simply stating the deceased’s name and the years of his life together with the word “Beloved”. On the rear it is proposed that there should be a line from a poem by Rudyard Kipling:

“Till the master of all good workmen shall set us to work anew”¹

Beneath the verse it is proposed that there should be an engraving of a mason’s trowel.

3. The proposed memorial does not come within the Churchyard Regulations for the Diocese of Exeter, by which this Court delegates to local clergy the task of determining whether permission should be granted for standard memorials and the present Petition was therefore issued in order to obtain permission from the Court. As one of the objectors is the parish priest, the case cannot be determined by the Archdeacon under the regulations and has therefore been passed to the Chancellor.

¹ From ‘When Earth’s Last Picture is Painted’ – note that the original version has ‘put us to work’ rather than ‘set us to work’.

4. The Petition was originally supported by the Revd Derek Arnold, Rural Dean and Team Rector who, in an email dated 12 October 2020, wrote:

“I am happy with the design and support the application. The churchwardens have the copies.”

5. The Exeter Diocesan Advisor Committee [‘DAC’] were consulted and recommended that the application should be granted.
6. The PCC for St Margaret’s Church object to the proposal on the basis that there should be no inscription on the rear of the stone. No complaint is made about the size of the stone, its material or other design features. No objection is taken to the quotation from Kipling or the depiction of a mason’s trowel, although the point is made that the font should be smaller. The PCC’s objection was that to allow an inscription on the rear of the stone would be ‘out of keeping with St Margaret’s Church and churchyard which are Grade 1 listed’ and that to allow this application would establish an unacceptable precedent. The view of the PCC on this issue was unanimous. The relevant PCC meeting seems to have taken place in December 2020 and, according to the churchwarden’s letter recording the outcome, none of the PCC members had apparently been aware of the application prior to that time.
7. In response to the PCC’s initial objection, Mr Andrew Clegg (in a letter dated 28 December 2020) asserts that, contrary to the PCC’s claim, there are a number of memorial stones in the churchyard, both old and more modern, which have inscriptions on both sides. Mr Clegg produced photographs of a number of such stones. In his letter Mr Clegg stressed the high aesthetic standards that he and the deceased’s wider family wished to meet in commissioning this stone. Their aim is to enhance the graveyard and not the contrary. Mr Clegg further argues that the rear inscription may catch a visitor’s eye and draw attention to a line of view of the graveyard which is out of the norm and, secondly, that the aesthetic impact of the relatively bare front face would be lost if the inscription were to be moved from the rear to the front.
8. By letter dated 31 December, Revd Arnold revised his position stating:

“After discussion with members of the PCC, I would like to make an objection to this proposal on the grounds that it is not a tradition in this churchyard for headstones to have writing on the reverse side. Therefore it would not fit in with the existing headstones within the churchyard. That would also include the symbol of the trowel which is also on the reverse side of the headstone.”

9. By an email dated 11 February 2021, Revd Arnold further stated:

“I have no real objections to the text on the back but it should be smaller text, however I do object to the masonic symbol of the trowel. They say he was a builder but we can't find a great deal of evidence to support this and the symbol has nothing to do with him being a builder. I have spoken with someone from the so-called Christian side of the Freemason and he tells me it has no Christian significance. It might offend those who are not happy with the practices of the Freemasons but [if] it is not on the Headstone, it won't offend anyone.”

10. Standing back from the three communications from the Revd Arnold on this issue, I have taken his position as being represented in the final one, namely that he has no real objection to there being an inscription on the rear (albeit in smaller font). He does, however, object to the image of a trowel on the basis that this is, or might be seen as being, a reference to Freemasonry.

11. By letter dated 1 February 2021, Mr Allister McNeill, on behalf of the PCC, accepted that there were a small number of memorials in the churchyard which had inscriptions on the rear, but such inscriptions were confined to names and dates and were very much the exception rather than the rule. It was said that there were no double side inscriptions in the particular area of the churchyard near to the deceased's grave. Particular exception is taken to the family's desire to draw attention to the stone and that area of the churchyard. The letter concludes:

“The quality of the proposed materials and workmanship are not in doubt, but the PCC is of the view that aesthetics would be better served if everything were placed on one side of the proposed headstone and the Mason's Trowel given less prominence. The PCC members remain of the view that the requested Faculty should not be granted.”

12. In a final letter, dated 12 February 2021, Mr Clegg produced photographs of a range of headstones, both older and more modern, with extensive inscriptions on both sides. He

also identified at least one such stone close to the deceased's grave. On that basis, Mr Clegg considers that the PCC's assertions to the contrary are without foundation.

13. Having reviewed the papers in July 2021, it seemed clear that Mr Clegg had not seen Revd Arnold's final communication relating to Freemasonry and I directed that this should be sent to him. In his reply, by email dated 1 November 2021, Mr Clegg was adamant that his father had never been a Freemason, but had been a well-known local builder for 40 years. Mr Clegg invited Revd Arnold to contact Revd Glover, who had apparently known the deceased since childhood, to confirm this. There is no note that Revd Arnold has done so. Mr Clegg also questions whether a trowel is a symbol of Freemasonry and a Google search does indicate that the principal symbols are the square and compass. Further searches do, however, show that a masonic trowel may be an additional symbol.
14. Neither the PCC nor Revd Arnold has opted to become a formal party opponent under Faculty Jurisdiction Rules 2015, Part 10. Their written objections are therefore to be taken into account by the court, without a formal hearing.

Discussion

15. Before turning to consider the merits of this application and the Court's determination, I owe all those involved, but particularly Mr Andrew Clegg and his family, a sincere apology for the time that it has taken to conclude this matter. Whilst it is the case that my primary role as President of the Family Division and Head of Family Justice has been very pressing during this period, that is not an excuse for such an extended delay. I can only offer my apologies for any frustration and distress this has caused, and for the inability for the family to 'move on' that may have come from an earlier resolution of this dispute.
16. Turning to the approach that the Court should adopt, the matter has recently been clarified by the Court of Arches (which is the court of appeal in such matters) in the case of *St Giles, Exhall* [2021] EACC 1². The issue in that case related to the incorporation of text in the Irish language on the front of a headstone, but the Court of

² <https://www.ecclesiasticallawassociation.org.uk/judgments/memorials/exhallstgiles2021eacc1.pdf>

Arches took the opportunity to offer more general guidance, some of which is of relevance to the present dispute. Firstly, the Court of Arches endorsed a short statement of the purpose of an inscription on a churchyard memorial in these terms: “To honour the dead, to comfort the living and to inform posterity”.

17. Secondly, the Court clarified the approach to be taken to Churchyard Regulations. These regulations simply delegate the decision making in most ordinary cases, that is those within the regulations, to the local clergy. They do not establish any presumption that an application that is outside the regulations will be turned down, or only granted on exceptional grounds. Where an application is outside the Churchyard Regulations, the impact is functional in that it will then have to be determined by the Archdeacon or the Court. When it comes to the Court for determination it will be decided on its merits, without any default position or presumption arising from the regulations.
18. Turning to the application that is now before the Court, the burden of proof lies with the Petitioner and a Faculty will only be granted if a positive case for doing so is made out. The court must consider each of the factors that are relevant to the decision, with the application being determined on its merits, subject only to a prohibition upon granting permission for something which is contrary to, or indicative of any departure from, the doctrine of the Church of England in any essential matter. [see the *Exhall* case referred to above].
19. The issues are in reality very narrow. There is no objection to the size or material of the stone, or to the inscriptions or lettering, save that it is suggested that the font used for the quotation should be smaller. The Revd Arnold objects to the depiction of a trowel on the grounds that it is a symbol of Freemasonry, but the PCC does not. The PCC objects to the inscription being on the rear of the stone, but the Revd Arnold does not.
20. Having examined the photographs produced by Mr Clegg, it seems that this churchyard does have a range of stones on which there is substantial engraving on both sides. Many of these appear to be aesthetically pleasing and the PCC has not drawn attention to any of them as being inappropriate or otherwise unacceptable per se. It is clear that the number of double-sided stones is small and that the great majority are only inscribed on the front, but in terms of a precedent the introduction of double-sided inscriptions

would seem to have been accepted in this churchyard many decades ago and has been continued from time to time over the years.

21. The proposed stone has been designed by a specialist firm. The overall layout is aesthetically pleasing and the stark front face with the deceased's name prominently displayed and then, much lower down, the single word 'beloved' has a balance and integrity which would be lost if the quotation from Kipling were to be introduced into the space which has been deliberately left blank.
22. It is to be noted that the Exeter Churchyard Regulations 2013 [at A3(ii)] expressly encourage the introduction of memorials which are of artistic merit or interest by giving power to the Archdeacon "who (with the consent of the Parish Priest) with the agreement of the Diocesan Advisory Committee, may permit an individually designed and hand-crafted monument which is of artistic merit but which does not conform to these regulations. This power is given to encourage variety and the improvement of aesthetic standards." I consider that the proposed memorial in the present case falls squarely within this category. The artistic quality does not, of itself, determine the issue over there being an inscription on the rear face, but the design has to be looked at as a whole and, as I have indicated, I consider that the artistic value of the plain and largely blank front face would be compromised if the inscription were to be inserted there.
23. In the same context, it is of note that the Churchyard Regulations at section G expressly permit the Archdeacon to approve a stone that falls within A3(ii) where it is proposed that there should be an inscription on the rear face.
24. The unanimous view of the PCC requires respect, given the wealth of knowledge of, and commitment to, this church and churchyard that are likely to be represented by the PCC membership. However, having given this issue careful consideration, I do not accept that the introduction of this stone would establish any precedent. Indeed it would become another of the small cohort of such stones in this churchyard. The proposed memorial needs to be regarded as a whole. In that context, for the reasons that I have described, the Kipling inscription would be out of place on the front face. Looked as a whole, this is indeed a memorial which has artistic merit, with the rear face inscription being an integral part of the overall effect. The introduction of this interesting and well-

crafted stone is likely to have a positive impact the churchyard, rather than the contrary, and be of interest to visitors.

25. The issue relating to the trowel motif can be dealt with shortly. The starting point is that the prevailing view in the Church of England is that there are a “number of very fundamental reasons to question the compatibility of Freemasons with Christianity.”³ On that basis any overt reference to Freemasonry on a memorial in a Church of England churchyard is unlikely to be approved. The question here is whether the trowel on the proposed memorial is a reference to Freemasonry.
26. Whilst a trowel is a tool with clear connections with Freemasonry, that is not, on Mr Clegg’s assertion (which I accept), the intention here. I differ from Revd Arnold’s assertion that a trowel has ‘nothing to do with him being a builder’. Rather, the trowel is a symbol of the deceased’s life-long role as a builder and stonemason in this locality. The deceased had no connection with Freemasonry and nothing else on the stone relates to it.
27. It is to be noted that Revd Arnold himself did not take any objection to the trowel motif until his third communication in February 2021, some five months after he had at first approved it and some two months after his second communication in which the Freemasonry connection was not raised. If the connection with Freemasonry is so obvious, and so unacceptable, one would have anticipated the point to have been raised much earlier. It is not a matter which concerns either the PCC or the DAC, which positively recommends that permission be granted for this memorial.
28. In all the circumstances, the Petitioner has established that the trowel is not intended to be a symbol of Freemasonry. It is a fitting and simple motif which represents the deceased’s role during his working life and, as such, has an obvious relevance to the Kipling ‘all good workmen’ quotation. There is no other reason for refusing permission for the trowel motif to be included on the rear face.
29. A point is made in passing by both the Revd Arnold and the PCC as to the size of font used on the rear face. This is obviously an issue over which there is no clearly right or

³ General Synod June 1987: <https://anglican.ink/2015/06/25/freemasonry-and-the-doctrine-of-the-church-of-england/>

wrong answer. The Court has a discretion in these matters and, for my part, I consider that the font size is proportionate and in keeping with the overall design of the stone. The font size is not out of kilter with that on stones that have been photographed by Mr Clegg, particularly those in the ‘Memorialsv1’ pdf document where the inscription is on the rear face.

Conclusion

30. Drawing all of these matters together, I am persuaded that permission should be given for the memorial to David George Clegg as proposed in the Petition. I consider that it readily meets the need “To honour the dead, to comfort the living and to inform posterity”.
31. I would invite Mr Clegg to check the wording of the quotation with the original Kipling poem. If there are particular reasons which lead the family to prefer the word ‘set’, instead of ‘put’, then the difference is so marginal that I grant permission for the use of either word.
32. I therefore direct that a Faculty is to be issued in the terms of the Petition.

The Rt Hon Sir Andrew McFarlane
Chancellor of the Diocese of Exeter
10th February 2022