

Neutral Citation Number: [2018] Ecc Lin 4

IN THE CONSISTORY COURT AT LINCOLN

In the matter of St Vedast, Tathwell re the late Ethel Maude Burns

JUDGMENT

1. In May 1994 Mr Al Burns died. He was survived by his widow Ethel Maude Burns. Mrs Burns erected a headstone in the graveyard of St Vedast, Tathwell. It is a headstone in polished dark grey granite with a carving of a Church window on. The top of the headstone forms an asymmetrical triangle with the shorter length of the triangle sloping to the left side and the longer side of the triangle forming a more gentle slope to the right. The inscription reads:

‘IN
LOVING
MEMORY OF
A DEAR HUSBAND
AL BURNS
DIED
19TH MAY 1994
AGED 72 YEARS

Gone are the days
We used to share
But in my heart
You’re always there’

The inscribed letters are painted gold.

2. The late Edith Burns wrote a note that is undated, which reads, in its entirety:

‘TO WHOM IT MAY CONCERN

Would you please arrange for my headstone to be exactly as my husbands but with the window in the opposite side.

Also a lock of my husbands hair in my hand.

Edith Maud Burns’

3. Mrs Burns died on 1st October 2016 and her executrix, Teresa Doe has applied for Mrs Burns’ request to be carried out. The headstone is designed to be a mirror image of Mr Burns’ headstone with the inscription:

In Loving Memory of
JENNY BURNS
Beloved wife of Al Burns
Died 1st October 2016
Aged 93 years
Reunited

4. The Diocese of Lincoln Graveyard regulations, drafted in 2008 and amended in 2012 read as follows:

2. Materials

(i) Headstones, crosses or other memorials should be made of natural stone (with no reflecting finish), teak or oak or cast or wrought iron. Traditional stones are normally used. Those recommended are sandstones and limestones like Forest of Dean, Hornton Blue, Ketton, Nabrasina, Portland, York and Northumberland stones and Welsh Black and Westmoreland Green slates. Neither black nor dark grey granites (including Rustenberg) are permitted (except for honed black and dark grey granite, which are permitted), nor marble, synthetic stone or plastics. Although the stone may not be polished nor finished in any way to give the effect of polished stone, the surface may be suitably prepared for inscription...

6. Inscriptions

(i) Any epitaph must be simple and reverent and preferably of biblical, Prayer Book or Common Worship origin.

(ii) The name of the deceased, the dates of birth and death, or the age and the date of death alone, should be included.

(iii) Inscriptions should be incised, or in relief, and may be painted, but not in metallic paints such as gold or silver. Plastic or other inserted lettering is not permitted.

5. At a meeting of the Raithby PCC on the 26th October 2017 the council approved the application for a non-standard headstone. *'Precedent'* the minutes state *'has been set by an existing similar headstone of the family. Approved but this is in no way setting a further precedent for others.'* In a short letter dated 8th May 2017 the Revd Lorraine Turner confirmed her support for the design stating:

'it seemed reasonable to me that her memorial should match her husbands and that the applicant Theresa Doe would have greater piece of mind knowing she had carried out Mrs Burns' wishes.'

6. By a letter dated 26th January 2018 the Revd Nick Brown, Rector of Louth and Rural Dean of Louthesk applied for a dispensation from the Churchyard Regulations for the memorial described in paragraph 3 above.
7. The Chancellor asked for clearer photographs both of the existing headstone, its position in the graveyard and the proposed position of the new headstone.

8. Having received the photographs the Chancellor directed that he would allow the headstone as prayed, in polished dark grey granite with the proposed words, but refused to allow the letters to be painted gold.
9. Theresa Doe, the executrix of the late Mrs Burns contacted her MP to complain about what she described as the *'ludicrous and disrespectful'* decision not to allow the lettering on the headstone to be painted in gold. The Registrar of the Diocese, having been contacted by the MP's office explained the proper route would be to petition for a Faculty. Bearing in mind the Chancellor had already made his views known in his directions he asked me, as his Deputy, to deal with any petition. As is the appropriate route the petition was passed to the DAC, who had no comment to make.
10. I asked that within 28 days of the last date of the public notice being displayed I be sent a statement setting out why the Churchyard regulations with regard to the lettering should be dispensed with.
11. Theresa Doe wrote in an email sent to the Registrar:

'Both Mr and Mrs Burns who were absolutely devoted to each other have been laid to rest side by side in the St Vedast Churchyard and Mr Burns existing headstone faces a hedge and is not visible to anyone other than family or friends visiting these two graves.

Mrs Burns proposed memorial headstone will be placed alongside her Husbands and complete the wishes of the couple.

I am obviously keen to fulfil my duties as Executor and Mrs Burns final request and ensure that the two gravestones match as they so desired, rather than appear as two individual and non matching memorials.'
12. The decision to dispense with the Churchyard regulations is a matter for my discretion, it cannot create a precedent for other memorials in any Churchyard. Each case will turn upon its facts. Comparing the existing gravestone of Al Burns (erected before the drafting of the Regulations) with the present Churchyard Regulations I am satisfied that it breaches the current Regulations 2 (i), 6 (iii) and, arguably the letter if not the spirit of 6 (i). I have not been provided with any information as to whether it was in breach of any Churchyard Regulations when it was erected in 1994, and so I make no finding about whether it was a potentially objectionable memorial then. As I have been shown no Faculty for its erection, I have to assume that it was erected properly.
13. The Chancellor has permitted the diversion from the Regulations in relation to the material of Mrs Burns' memorial (that is, a diversion from Regulation 2 (i) but not the colour of the lettering (a diversion from Regulation 6 (iii)). I remind myself of the wording of the Diocesan Regulations which state:

5. The reason for Regulations such as these is that they represent the collective wisdom over many years of Chancellors and Diocesan Advisory Committees for the

Care of Churches who have had the care of churchyards and the maintenance of the fabric of a Christian presence within our communities.

6. The Regulations differ from those which govern municipal cemeteries where the land is not consecrated and where the setting will be different (although sometimes part of a municipal cemetery may contain consecrated land). A churchyard almost always surrounds a church building. Memorial stones which may be entirely suitable for an urban cemetery may be out of place when close to an ancient parish church, especially in a rural setting.

14. In my Judgment, having seen the photographs of the graveyard, the material of the existing memorial is much more jarring than the lettering, and would fall comfortably within the description of the final sentence of regulation 6 above. The Chancellor has permitted the erection of a further memorial which, whilst also breaching regulation 2 (i) above will, if I grant the Faculty as prayed, mirror almost identically the original headstone. The only difference, if I do not grant the Faculty as prayed, will be the colour of the lettering. This will create a curiously lop sided appearance to what is supposed to be a symmetrical memorial.
15. In my Judgment this is a suitable case, on its own unique and particular facts, for a diversion from the Churchyard Regulations, and I am prepared to grant the faculty for lettering in gold as prayed. My decision cannot be seen as setting any sort of precedent for any similar memorial to be introduced into this or any other churchyard in the Diocese.

21st November 2018

Justin Gau
Deputy Chancellor