

In the Diocese of York

In the Consistory Court

The Parish of Welton with Melton

The Church of St Helen

1. In this matter the Archdeacon of the East Riding is seeking a faculty to remove a desk-type memorial placed where the ashes of Phyllis Margaret Hathway have been interred in the detached burial ground, and to introduce an alternative plaque within the Churchyard Memorial Rules.
2. The history can be briefly stated. Phyllis Margaret Hathway died on the 2nd October 2013. Her funeral took place at St Helens on 14th October 2013. It was conducted by a Reader from Skidby. The deceased lived opposite the churchyard and her family would have liked her to be buried in it. It is however a closed churchyard and so that was not possible.
3. There is however a consecrated burial ground in Common Lane, Welton and the family agreed to her ashes being buried in the area for cremated remains in that burial ground. Subsequently the family applied for a desk style memorial to be placed over the place of burial. They were told that that was not permissible as it was outside the scope of memorials permitted by the Churchyard Memorial Rules. There was considerable correspondence on the topic but in due course the family agreed to apply for a flat memorial plaque as permitted by the Rules.
4. All of this happened whilst the Vicar, the Revd Canon Elaine Bielby, was absent from duty on sick leave, and was handled by a variety of people including the Rural Dean and the Archdeacon's PA.
5. Unfortunately the stone mason sent to his workshop the paperwork in relation to the originally requested desk memorial rather than the agreed flat plaque. It was the desk memorial that was then placed in the burial ground in July 2014.
6. The matter came to light very quickly as a result of another person seeing the memorial and asking the stone mason to make a similar plaque as a memorial to a member of their family. The stone mason immediately realised his mistake and informed the Hathway family of it and said that he would make a new plaque at his own expense and replace the one introduced in error.
7. Unfortunately the family refused to give him permission to change the plaque and so the mason on 27th August 2014 informed the Vicar who had returned to work about the problem that had arisen.

8. Since then there has been communication between the family and the vicar and the then Acting Archdeacon. The family was told that if they wished to retain the desk memorial they would have to apply to me for a confirmatory faculty. Despite a stated intention that that would be done, no application has been made.
9. It is in all those circumstances that the Archdeacon of the East Riding has presented the Petition referred to in paragraph 1 above.
10. The proposal has been considered by the DAC which has recommended it to me for approval.
11. I have considered the papers supplied to me which include photographs of the memorial which has been introduced into the burial ground.
12. The Rules include an explanation of why the restrictions are imposed on the type of memorials permitted in an area for cremated remains. The particular passage in the Rules says:

“The Chancellor has indicated that he is not willing to authorise upright memorials to mark cremated remains in an area already set aside by faculty for cremated remains because such a memorial is out of proportion to the size of each plot and may cause a tripping hazard. Management of the ground between upright memorials in narrow rows can be difficult.”
13. What is said about upright memorials applies equally to the raised desk type memorial that has been introduced here.
14. I am quite satisfied that in all the circumstances which include the original agreement, the genuine mistake that took place and the need to uphold the rationale behind the Rules in this burial ground, it is appropriate for me to grant the application made by the Archdeacon.
15. Clearly there will have to be Public Notice of this proposal and in the circumstances there should also be notice given directly to the Personal Representatives of Mrs Hathway.
16. If there is no objection within the prescribed period then a faculty shall pass the seal until further order.
17. I will allow 3 months from the issue of the faculty for completion of the proposal.
18. If there should be any objection filed then the matter should be referred back to me for further directions.
19. Before parting with this matter, there is one other issue I should deal with. I have seen photographs of the current memorial and note the size of the floral tribute to the deceased. Unfortunately this is overflowing from the site and intruding onto the adjacent memorial plots.

20. The regulations make two provisions about flowers. First, there is a general provision for the laying of cut flowers on a grave (Reg 2.1). Reg 2.2 providing for receptacles recessed into the ground clearly only applies to coffin graves and not to areas for cremated remains where there is a memorial tablet covering the whole of the area of the plot.

21. Second, there is a provision in relation to the burial of cremated remains that “A stone tablet or plaque marking the burial of cremated remains may include an integral flower receptacle, the top of which must be flush with the tablet or ground surface” (Reg 5.4).

22. I hope that the purport and intention of the rules is clear – it is intended that each memorial for cremated remains should be capable of bearing a floral tribute either of cut flowers laid on it, or being placed in an integral receptacle, but that each such tribute is to be restricted to what can be contained in that receptacle or laid on the memorial and it should not obtrude onto other memorials or grave spaces.

His Honour Judge Peter Collier QC
Chancellor and Vicar General of the Diocese of York

1st May 2015