

IN THE CONSISTORY COURT OF THE DIOCESE OF COVENTRY

SS PETER & PAUL: WINDERTON

RE: A PROPOSED MEMORIAL TO DANIEL SAMUELS

JUDGMENT

- 1) The late Daniel Keith Samuels died in 2016 aged 46. He was buried in the churchyard of SS Peter & Paul, Winderton. His mother, Mrs. E. Samuels, petitions seeking a faculty for a memorial at his grave.
- 2) The proposed memorial is to be of unpolished Karin grey granite bearing an inscription with the years of Mr. Samuels's birth and death and expressions of loss and appreciation in uncontroversial terms. However, it is also proposed that at the top of the headstone there should be the etched image of an eagle in black enamel. It is that image together with the proposed use of granite which takes the proposed memorial outside the scope of those which Rev'd George Heighton, the vicar of Brailes, could authorise and which necessitate this petition.

The Procedural History.

- 3) The Parochial Church Council supports the application and Mr. Heighton has provided photographs showing other memorials of similar stone in this churchyard.
- 4) The Diocesan Advisory Committee has advised that it does not object to the proposed memorial. I note that the reason given by the Committee for not recommending the proposal was that apart from the precedents in this churchyard "polished granite memorials are not permitted under the churchyard regulations". The application is, in fact, for unpolished stone albeit stone of a type which even without polish will have a rather shiny and smooth appearance.
- 5) There were two letters of objection the contents of which I will consider below but neither of those objectors chose to become parties opponent.

6) I concluded that it was expedient to determine this matter on the basis of written representations and an unaccompanied site visit. The Petitioner consented to this. Mrs. Samuels has been assisted by her son, Neil Samuels, and he has provided helpful and detailed submissions on her behalf.

The Objections.

- 7) Mrs. A. M. Jervis has written taking issue with the proposed use of grey stone. She says that it will not be harmonious with the church or the churchyard. She explains that the church is of local Hornton stone and that the majority of the stones in the churchyard are of the same material. Mrs. Jervis believes that the proposed stone would not be in keeping with those memorials. She also asserts that the plot in which Mr. Samuels was buried is in “very prominent position” and so the discordant stone would be readily apparent.
- 8) Mrs. K. Hadfield also expresses reservations about the proposed material but her principal concern relates to the image of an eagle. She feels that it is not “in keeping with Christian symbology”. Mrs. Hadfield fears that the proposed image would detract from the appearance of the churchyard and might give scope for “future gravestones to depict personal and subjective symbols which conflict with the traditions of the Church”.

The Petitioner’s Submissions.

- 9) On behalf of his mother Mr. Samuels says that the churchyard already contains a number of memorials which are not of local stone. He explains that this is because the local stone is no longer available. Mr. Samuels says that light grey stone proposed was chosen as being more compatible with the churchyard than a darker material.
- 10) As to the location of the plot Mr. Samuels does not accept that it is any more prominent than many of the other plots in this small churchyard. He says that location of the plot was deliberately chosen in conjunction with the former vicar of Brailes to enable Daniel Samuels’s remains to be close to the graves of the several generations of family members who lived and worked in and around Winderton and who are also buried in this churchyard.

- 11) As to the image of the eagle Mr. Samuels says that this was chosen to represent his brother's character and interests. He explains that his brother was "a big rugged man whose favour colour was black, he enjoyed the simple pleasures in life ... rock music, bikes & trikes including Harley Davidson". The late Mr. Samuels also enjoyed walking in the North Pennines and the family feel the eagle will represent his personality and his interest both in motor bikes and in the mountains. Mr. Samuels takes issue with the suggestion that the eagle is not a Christian symbol. He refers to a number of references to the eagle in the Bible. In particular Mr. Samuels says that his mother drew attention to Isaiah 40:31 "they who wait for the Lord shall renew their strength, they shall mount up with wings like eagles." I do, however, get the impression that the biblical connexion was not the primary reason for the choice of the symbol of an eagle but rather it was felt, as Mr. Samuels accepts, to represent the character and interests of Daniel Samuels.
- 12) Mr. Samuels points out that the churchyard already contains one frankly non-Christian image and he refers to a memorial bearing the image of a motor car.

The Applicable Principles.

- 13) I have explained at some length in *St Leonard, Birdingbury* [2018] Ecc Cov 1 my understanding of the principles to be applied when a faculty is sought for a memorial falling outside the range authorised without faculty by diocesan Churchyard Regulations. In short a good reason is needed to justify the grant of such a faculty. However, where there are already such a number of memorials outside the scope of the Regulations in a particular churchyard that it can be seen as unfair to a petitioner to prohibit a further memorial of the same kind then that unfairness can itself be a good reason for the grant of a faculty. Account has to be taken of the nature of the church building and of the churchyard. Even where a churchyard already contains a number of memorials falling outside the scope of the Churchyard Regulations regard must be had to the impact which a proposed memorial will have on the appearance of the church and the churchyard. A memorial which strikes a jarring or discordant note and which detracts from the appearance of the church or the churchyard will not normally be permitted because to do so would interfere with the rôle of the churchyard as

providing both a setting for the church and a fitting resting place for those whose remains are in the churchyard.

The Impression formed on my Site Visit.

- 14) The impression I formed on my site visit was that the substantial majority of the memorials in the churchyard were of older stone. In her letter Mrs. Jervis said that they were of Hornton Stone but I doubt this. The church building certainly is of Hornton Stone with its typical brown appearance. The older memorials appeared to my eye to be grey rather than brown. It is highly likely that they were of local stone and, if so I have no doubt that Mr. Samuels is right to say that this type of stone is no longer available. There are a number of memorials in granite. Some of these are of polished black granite and in at least one instance the memorial bears gold lettering. There are a number of memorials of grey granite which would appear to be of the same or a very similar appearance to that of the unpolished Karin grey granite which is proposed for this memorial.
- 15) The plot in which Mr. Samuels is buried is not in my assessment in an unduly prominent location though, as Mr. Neil Samuels has pointed out, almost any plot in this small churchyard can be readily seen from any other point in the churchyard.
- 16) There are a number of the older memorials which have engraved images of angels and the like. Those images have weathered and are of the same colour and material as the stone of the respective memorials. Accordingly, attention is not unduly drawn to them and they do not appear out of place or discordant.
- 17) There is, as Mr. Samuels says, one memorial which bears the image of a motor car. This is in a prominent position being very close to the door to the church. The memorial in question is of brown stone and the image of the car is engraved into the memorial and is of the same colour as the rest of the memorial. The effect is that although the image is clearly visible it does not “jump out” at those seeing it.

Conclusions.

- 18) I am satisfied that a memorial of unpolished grey granite is acceptable in this churchyard. There are already a number of memorials of a similar material and

the older memorials are of grey stone. I am satisfied that a memorial of stone of the type proposed will not strike a discordant note and that there is a good reason for permitting its use.

19) I turn to the proposed image of an eagle. I am satisfied that the use of an image of an eagle is not inherently inappropriate in a churchyard. I am also satisfied that its use on a memorial to Daniel Samuels is appropriate given his character, interests, and personality coupled with the biblical references to which his family have drawn attention. However, I have concluded that the proposed image in black enamel on a light grey stone will strike a discordant note and runs the risk of drawing undue attention to the memorial and detracting from the harmonious appearance of this churchyard. The use of black enamel would give a two-tone effect which would differ from the other images in the churchyard; which would heighten the discrepancy from the memorials which could be authorised under the Churchyard Regulations; and which heighten the attention drawn to this memorial as opposed to other memorials and to the eagle as opposed to the body of the inscription on the memorial. Although I am satisfied that a good reason has been shown for including an image of an eagle on the memorial I am not satisfied that a good reason has shown for that image being of a different material and colour from the remainder of the memorial.

20) It follows that the petition in its current form is dismissed. However, I am able to authorise a memorial in Karin grey granite bearing an image of an eagle provided that the image is etched into the memorial but not coloured. If the Petitioner wishes to seek permission for a memorial in those terms then I give permission for amendment of the petition and a faculty authorising such a memorial may issue without further reference to me.

21) The wording proposed for the memorial is acceptable and I authorise it. However, I do invite the Samuels family to consider a revised wording to tie in with the use of the image of an eagle so as to give an indication of why that image is being used. They may wish to include the quotation from Isaiah 40:31 or some other biblical quotation or, indeed, a more express reference to those aspects of Daniel Samuels's character which make the inclusion of an eagle appropriate. If they do wish to consider revising the wording they should consult

Mr. Heighton. Any wording which is approved by him can be included on the memorial in addition to or in substitution for the currently proposed wording without further reference to me.

STEPHEN EYRE
HIS HONOUR JUDGE EYRE QC
CHANCELLOR
8th June 2018