

Neutral Citation Number: [2021] ECC Ely 3

In the Consistory Court of the Diocese of Ely

In the Matter of a Faculty Petition

The Church of St Andrew in the Parish of Great Staughton

Mrs S Tunnard

Petitioner

PRELIMINARY MATTERS

1. This is an application for a churchyard memorial which does not comply with the Churchyard Regulations (2017). The petitioner applies for a memorial to her husband, Craig Tunnard, who died in April 2017 at a young age.
2. I am aware that the petitioner is aggrieved that it has taken nearly four years to reach the stage where I am able to make a decision on her application. Any delay is regrettable but for some reason the petition was not lodged with the Registry until late September 2021 and the period for the petitioner to submit any response to the objection taken to the memorial expired on 20th December. I have sought not to delay matters further and have reached my decision on 21st December 2021.
3. I do not know why there was a substantial delay between the burial of Craig Tunnard and the application for a faculty. It is highly regrettable and has not assisted the bereaved in coping with the death of a much loved member of their family.

THE APPLICATION FOR A FACULTY

4. Mrs Tunnard wishes to put a headstone on the grave of her husband with the following features:
 - (a) The top quarter of the headstone to have a photograph taken on a beach with her husband holding a surfboard.
 - (b) Below that is an inscription with his names, dates and the following words "Cherished memories of a beloved Husband, Father, son and brother. Always in our thoughts, forever in our hearts" the lettering to be picked out in white.
 - (c) The stone to be honed dark grey granite known as South African grey or Rustenburg grey.
5. All but one member of the PCC oppose the application because of the photograph and on no other ground.

6. A formal objection was lodged by Janet Perrett, a churchwarden. In her letter of objection she makes it clear that she realises that the death of Craig Tunnard was a great loss and tragedy for his family and friends and she does not want to cause additional stress and frustration to his family. It is the request to have an engraved picture of Craig on the stone which causes her to object. She sees it as unfair to endless families who frequently after burial look at other memorials in the churchyard and then request to replicate what they see there. She is concerned that if they agree to this request there will be a long series of similar requests made hereafter. She considers that the Regulations were carefully written with the purpose being to maintain the appearance and appropriate reverence of churchyards; she is strongly of the opinion that to comply with this application will give the church years of unsuitable requests from families especially in the first stages of their grief.
7. The DAC were unable to support the application either in terms of design or the material used.
8. The Minister, Revd Nicki Bland, is in favour of the memorial, She has had conversations with various members of the petitioner's extended family to try to explain that she is not in a position to grant this application.
9. Mr Brian Tunnard, Craig's father, has written in support expressing the view that there are other memorials in this and other churchyards which have pictures on them. He specifically identifies a headstone with a man on a tractor etched on it. Because his daughter-in-law is being caused so much stress by this situation, he has taken over the handling of the application.
10. I have been sent photographs by the petitioner of other headstones which have etched on them, for example, a leaping fish and a bird sitting on a branch; a Spitfire, a bird, trees, fences and a house; a rose; and an effigy of a female saint (or possibly a nun).
11. AJ Mills, Master Masons, have written in support. They suggest that there have been other memorials which have been granted despite not meeting the requirements of the diocese. They are confused about the DAC's reference to "materials" when, it is suggested, the stone to be used for this memorial is "...widely used in churches across our area of work".
12. In a separate letter they say that they are "...well aware of the rules and regulations that govern churchyard monuments. Ordinarily, we state to

our clients that churchyards will not allow any form of design outside of the traditional designs that link their faith to the church e.g., Cross engravings. However, as the family have seen many monuments with similar and larger entablature they too would like to have some personable and important to them to honour their son's life" (sic).

13. They suggest that they could provide a finely etched design at the top of the memorial, being careful to take a small area of the stone for the design and not highlighting it with any paint or gold leaf, onto honed dark grey granite sourced from within the British Isles, and they understand, this design is supported by the Revd Nikki Bland.

THE REGULATIONS

14. The relevant parts of Paragraphs 16 and 17 of the Regulations are as follows:

(16) A monument or ledger stone must not include–

- a. a portrait, photograph or other image of an individual (whether of the person commemorated or any other person)
- b. any other pictures or imagery except as permitted by Regulation 17

(17) A black, white or uncoloured etching or carving may be permitted provided that it–

- a. is reverent and not indicative of beliefs contrary to the doctrine of the Church of England,
- b. does not depict an individual, and
- c. covers no more than one-fifth of the surface of the monument or ledger stone.

15. Paragraphs 23 and 24 regulate the type of stone to be used. As relevant to this application the stone must not be finely honed; the stone should normally be a local stone which reflects the colours of the stone of the church building. It is not permitted if the granite is darker than Karin Grey.

DECISION

- 16 Whilst it may be deeply frustrating for a petitioner to find that there are other memorials in a churchyard that offend against the Regulations, that there are such memorials already in place cannot provide a valid reason for allowing further memorials to be placed in the churchyard. The only exceptions that may apply is if it could be shown that the

Chancellor or his predecessor has granted faculties on a regular basis for memorials that offend the Churchyard Regulations. The dates of the memorials which have been photographed were not installed during my time as Chancellor and I doubt that any of the examples (perhaps with the exception of the fish and the bird) would ever have been by my predecessor. With respect to AJ Mills, the fact that there are memorials in churchyards within the diocese which do not conform with the Regulations does not mean that they were the result of petitions in respect of which faculties were granted.

- 17 It is an unfortunate fact that over the years some memorials are erected without oversight or, on occasions, with the tacit approval of the Minister who fails to tell the next-of-kin of the need to obtain a faculty.
- 18 Janet Perrett is right: a failure to abide by the Regulations except in exceptional cases leads to families expecting their designs to be accepted and creates unnecessary tensions between the church as represented by the Minister and the PCC on the one hand and the bereaved on the other at a time when the church should be providing pastoral care to the next-of-kin through the long process of bereavement and adjustment. Whilst I understand the position of Revd Nicki Bland who is having to assist the bereaved, I support and applaud Janet Perrett and the PCC for recognising the problems that may be faced in the future by a failure to abide by the Regulations.
- 19 I will not permit the proposed design to appear on the headstone; it goes far beyond that which is permitted. However I will permit a black and white and uncoloured etching of a surfboard to appear at the top of the headstone but without the figure of anyone holding it and so long as it does not cover more than 20% of the headstone. Although a surfboard does not comply with paragraph 17(a) of the Regulations, I have assumed that surfing was a particular passion of Craig Tunnard's and it is something which the family would like him to be remembered for.
- 20 As for the stone, no justification is put forward to support the use of a stone which is darker than Karin Grey; the proposed stone is dark grey granite known as South African grey or Rustenburg grey and I will not grant a faculty for its use. I regret that the Stonemasons who purport to be well aware of the rules and Regulations governing churchyards should have suggested the use of such a stone to the petitioner. There are plenty of other stones available to the next-of-kin which can be recommended by stonemasons.

21 It follows that I will grant a faculty to allow for the etching on the lines which I have set out in paragraph 19 above and on a stone which is permitted by the Regulations. The petitioner will need to submit the new design and identify the stone (or slate) to be used to me before the faculty is issued. As ever I would be grateful for the views of the DAC on the new design.

His Honour Judge Leonard QC
Chancellor of the Diocese of Ely
21st December 2021