

Neutral Citation Number: [2022] ECC Wor 9

Private Petition Number 22/17

Order of the Chancellor of the Diocese of Worcester

Petition For Erection of a memorial in a churchyard

**Re: St Nicholas, Earls Croome
Memorial to Charlotte Comer**

JUDGEMENT

1. I am asked to grant a faculty permitting the installation of a kerbed memorial into the churchyard of St Nicholas Earls Croome in memory of Charlotte Comer, who died aged only 29 in very sad circumstances. The reason a faculty is required is because there is a desire to include kerbing as part of the memorial, which is not included in the Diocesan Guidelines for the Erection of Memorials as a form of memorial for which approval is delegated to the minister. I have not been sent a copy of any churchyard regulations specific to this churchyard and therefore assume the parish is content to rely on the Diocesan Guidelines.
2. The application is supported by the Priest in Charge, the Revd Barry Unwin, the sole churchwarden Margaret Herbert and the Diocesan Advisory Committee. Whilst the DAC do not always comment on such petitions, I specifically sought the advice of the full DAC rather than simply take notice the views of the DAC Secretary alone (helpful as his comments were) as there was a divergence of opinion within the PCC of St Nicholas, and I therefore considered it helpful to have an independent view from the full committee. In the event the DAC also approved the memorial for reasons similar to those suggested by Mark Carter, the Secretary.
3. As indicated, the PCC were divided, with some members supporting the petition and others opposing it. I sought further information as to the reasons for both the support and the opposition. The reasons for the opposition were based on the additional difficulties of maintenance that kerbed gravestones present. It is obviously not possible to mow over the kerbing such that strimming around the edges is required and maintenance of the ground within the kerbing is difficult. Such work is more labour intensive and therefore more expensive if the parish needs to pay to maintain the churchyard. This is an objection arising out of experience as there are several other kerbed gravestones of various ages within the churchyard. Two further concerns were that other families may have wanted kerbing and had it rejected which would be seen as unfair and, secondly that it may be a trip hazard. The first of these is less securely based. Anyone wanting kerbing could have applied for a faculty in the usual way and had their application determined on its merits. The trip hazard point has some merit, but part of the point of the request for kerbing is to prevent people walking over the grave, and the risk is in any event mitigated by the proposals to plant within the kerbing and possibly by the offer to set it flush to the ground (see below).

4. It has been suggested that some of the objection may have been based on the misconception that kerbed memorials prevented future use of the grave space. This is not a valid point as the remains of no unconnected third party would be buried in the plot where Charlotte's remains are buried, irrespective of whether or not kerbing is placed on it. The body or ashes of other family members can be interred there by agreement, subject to the available space within the existing grave. This concern has not been expressly raised by any of those voting against so I shall not deal with it further.
5. The PCC support for the petition largely arises from pastoral concern for the family, and a belief that the increased maintenance would be manageable, particularly in view of the existing kerbed monuments.
6. The reasons put forward by the petitioner, and by the Revd Barry Unwin in support of the petition are as follows, which are broadly echoed by the DAC:
 - a. Charlotte died young in tragic circumstances and a more substantial memorial is appropriate to mark where her body has been laid to rest;
 - b. The family are particularly keen to discourage anyone from walking over Charlotte's buried remains;
 - c. There are many other kerbed graves within the churchyard; and

The Rev'd Barry Unwin also added that some of Charlotte's family have European Heritage where there is a culture of more dramatic monuments, and the addition of kerbing is more in keeping with that cultural heritage than a simple headstone alone.

7. I find that these reasons taken together are sufficient to justify a departure from the Diocesan Guidelines. It is understandable that parents losing their only child as a young adult would want a substantial memorial to mark a situation that is, thankfully, relatively rare at this point in history. It is a reasonable concern for any grieving person to wish to prevent other people walking over a grave that is the focus of their loss, made particularly poignant in this case due to Charlotte's medical history. It is correct that there are other kerbed graves. From the ariel photographs helpfully supplied it can be seen that there are at least 16 other kerbed gravestones already present within the churchyard. The cultural preference for more dramatic monuments is noted, although the family themselves do not express this reason within the paperwork. I shall therefore grant the faculty, subject to some conditions.
8. It does appear to me that the objection based on maintenance is not without foundation, and the PCC members were right to raise it. Helpfully, the petitioners have made suggestions to minimise this. They have proposed filling the ground within the kerbing with Lily of the Valley, Charlotte's favourite flower, to remove the need for mowing within it. They have also offered to lower the kerbing and cornerstones to make mowing easier. These are genuine offers, indicative of a desire to work with the parish to find a practical solution, as was their earlier abandoning of the initial plan for a heart-shaped headstone. They are to be commended for taking such an approach.
9. Maintaining the planting within the kerbing may take some effort, but I form the strong impression that Mr and Mrs Comer would want to tend this grave well for as long as they are able

into the future. The detail of the planting should be agreed with the incumbent and churchwarden (or a further application could be made to the court if it is not agreed), but I would grant permission to plant Lily of the Valley in the absence of some very strong reasons why I should not. I will not restrict the planting to that flower only as it may not grow well in that location, and/or some variation or seasonal planting may be desired over time.

10. I am less clear that making the kerbing low to the ground level will assist with maintenance. It may in fact be easier to have a clear, visible kerb, rather than one that might be accidentally run over while mowing and damage the mower. However, that depends on very practical issues, such as the type of mower used. I therefore think, in light of the willingness shown by Mr and Mrs Comer to accommodate the parish's concerns, the precise height of the kerbs and cornerstones should also be agreed between the petitioners, the incumbent and the churchwarden, taking into account what height is likely to be the most practicable to maintain over the longer term. Again, in the unlikely event of disagreement, that can also be resolved by this court.
11. I also invite the petitioners, if they are able to do so, to consider making donations and/or a legacy to the church over future years for the ongoing maintenance of the churchyard. However, I do not make a formal condition of this as I have no knowledge of their circumstances and the other calls on their resources.
12. The memorial is otherwise unobjectionable. The dimensions and material are locally appropriate and the monument is to be professionally carved. The proposed wording must be agreed with the incumbent and I only need to consider it if there is any objection. The proposal is to state Charlotte's full name, dates of birth and death and add the phrase 'Angel on Earth – Angel in Heaven'. I understand it is agreed. If so, I raise no issue in respect of it.
13. Finally, I would like to thank all concerned for their careful and helpful approach to this petition and my request for further information. Having considered all the material before me, I grant the petition subject to the conditions set out therein.

ORDER

UPON receipt of a petition dated 29 July 2022 setting out the form of the requested memorial;

AND UPON receipt of an undertaking from Jessica Allard on behalf of Steve Allard and Son, Stonemasons, that only a memorial in the form for which a faculty is given will be erected;

AND UPON public notice of this petition having been given, with no formal objections being received;

IT IS ORDERED:

1. A faculty shall pass the seal for the erection of a memorial to Charlotte Comer in the form, size and material as set out in the petition of Mr and Mrs Comer dated 29 July 2022 subject to the following conditions:

- a. The wording of the memorial is to be agreed with the incumbent (or determined by the court in the event of any disagreement).
 - b. The height of the kerbing and cornerstones shall be agreed in writing between the petitioner, the incumbent and the churchwarden (or determined by the court in the event of any disagreement) up to a maximum height of 7.5cms above ground level for the kerb and 10cms above ground level for the corners.
 - c. The petitioners shall use their best endeavours to keep the ground within the kerbing planted with suitable flowering bulbs and other low-growing, low-maintenance plants so that mowing within the area of the kerbing is not necessary as agreed with the incumbent and churchwarden (or determined by the court in the event of any disagreement). For the avoidance of doubt this does not prevent the parish taking any necessary and lawful steps to maintain the churchyard as they see fit both now and into the future.
2. Copies of this order and the agreements made under paragraphs 1(a) and (b) it shall be provided in full to the stonemason before the memorial is installed.

**THE WORSHIPFUL JACQUELINE HUMPHREYS
CHANCELLOR OF THE DIOCESE OF WORCESTER
23 NOVEMBER 2022**