

Neutral Citation Number: [2023] ECC Ely 3

In the Consistory Court of the Diocese of Ely

In the Matter of a Faculty Petition

**The Church of St Mary Denver
In the Ouse Valley Benefice**

Sandra Florido

Petitioner

PRELIMINARY MATTERS

1. This is an application for a faculty to erect a headstone in polished green granite with a sandblasted inscription in gold lettering as follows:

“CHERISHED MEMORIES
OF MY LOVING WIFE
MUM, NANA AND GREAT NANA
BARBARA PAULINE
RICHES
8th AUG 1931 – 17th NOV 2021

Dearly loved by all the family
In our hearts you will always stay
Loved and missed every day

2. At the top of the headstone it is proposed to place an etching of a rose.
3. The Revd Nigel Moat identified that this application fell outside the Churchyard Regulations. He has realised that there are other headstones which also fall outside the Regulations which were introduced into the Churchyard before he came to the Benefice and which he thought may have been within the Regulations at the time.

THE RELEVANT CHURCHYARD FACULTY

4. I issued new Churchyard Regulations in 2017 and amended them in 2018. The relevant parts read as follows:
 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...

23. The surface of the stone must not be made reflective by being polished or finely honed...

24. The stone should normally be a local stone which reflects the colours of the stone of the church building. A monument, ledger stone cross or memorial stone is not permitted if it is–

- (a) black, blue, red or green (or appears to be any of those colours) or is otherwise brightly coloured, or
- (b) coloured or mottled granite, nor any granite darker than Karin Grey...

26. Inscriptions must be simple and reverent, and preferably (but not necessarily) they should be of Biblical or liturgical origin. They may include suitable literary sources.

28. Inscriptions should be incised, or in relief, or in lead, and may be painted to enhance legibility in a darker or lighter version of the colour of the stone. Silver and gold lettering is permitted; plastic or other inserted lettering is not permitted.

5. The relevant part of the Churchyard Regulations that were in place before the 2017 Regulations and which were themselves amended in February 2004 by my predecessor are as follows:

“Headstones and crosses shall be made of teak or oak, or cast or wrought iron, or natural stone, and shall have no polished or reflecting finish. Traditional stones are normally to be used; recommended are Forest of Dean, Hornton Blue, Ketton, Nabrasina/Roman Stone, Portland, and York (limestones), Northumberland (sandstone), and Welsh Black and Westmoreland Green slates. No coloured or mottled granites are permitted under these regulations, nor any granite darker than Karin grey, nor marble, synthetic stone, nor 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 an inscription.

Motifs and pictures are not normally allowed on headstones; if such are to be incorporated, however, they are normally to be of clear Christian significance.

Inscriptions must be simple and reverent, and preferably (but not necessarily) they should be of Biblical or Prayer Book origin.

Inscriptions should be incised, or in relief, and may be painted.”

6. It follows that there has been no real change in the Regulations since 2003 and I have no reason to believe, whether there were any formal Regulations before 2004, that the principles adhered to by my predecessors were in any material way different to those I produced in 2017.
7. My redrafting of the Churchyard Regulations was to modernise and simplify the Regulations rather than to alter them and were only issued having compared them with the Regulations that applied in other dioceses.

DISCUSSION

8. As the Revd Nigel Moat rightly decided, the memorial application fell outside the Churchyard Regulations because of the proposed use of green granite and because it is to be polished. It is also arguable that the inscription to be placed on the headstone is not reverent, and does not fulfil the preferred requirement that they should be Biblical or liturgical in origin or includes suitable literary sources. Further the etching seems from the photograph not to be uncoloured but picked out in blue and could not necessarily be said to be reverent.
9. Having identified those further issues which may offend against the Regulations, I would not prevent the petitioner from having the wording and the etching which has been chosen. I would invite the petitioner to consider the wording of the inscription to an obviously cherished individual. The words “my wife” and then, without a comma, a description of her other relationships with members of the family makes it appear to read as if she was all these things to her husband rather than to different family members. Other inscriptions resolve that issue by putting “Cherished memories of a loving Wife, Mum, Nana and Great Nana”.
10. As to the use of polished green granite, the justifications put forward for its use are as follows:
 - (a) The burial is in an area of the Churchyard which is completely separated from the church by a row of houses built on church land. There are about a dozen spaces left in the churchyard.
 - (b) There are memorials and headstones on this part of the Churchyard which do not comply with the Regulations.
 - (c) The petitioner has about four generations buried in the “cemetery” and his father planted some of the trees there.
 - (d) The PCC supported the application unanimously.

DECISION

11. The purpose of the Regulations is to preserve the beauty and solemnity of the Churchyards within the diocese in the same way that it is achieved in other dioceses. Having headstones of approximately the same type of stone, and usually to match the stone of the church but with some freedom to choose other stones or slate, is the best way to achieve that.
12. I accept that the uniformity has not been maintained in all churches within the diocese and it must be particularly frustrating for a petitioner to find that they have to apply for a faculty to use a stone which is out-with of the regulations but which is represented in some or many of the headstones in an area in which they wish to erect a similar stone. However, in my judgment, the fact that there are other stones that contravene the Regulations is not a good argument for allowing yet more. To do so is unfair on the great majority of those who have abided by the Regulations. To do so would make the Regulations unworkable and, whilst there remains a good and valid reason for the Regulations, I am not persuaded that the Regulations should just be ignored.
13. The petitioner puts no special reason forward for having the memorial in a stone which is not permitted by the Regulations and has, it seems, never been permitted by any previous Regulations. I have in other cases permitted the use of stones which are out-with the Regulations where a good reason is put forward for doing so. One such reason may be that a relative buried in the same Churchyard has a headstone which is not covered by the Regulations and, for conformity, a petitioner seeks to replicate the stone used. Although the petitioner in this case believes that four generations of the family have been buried there, it is not suggested that any have headstones in polished green granite.
14. This application is refused on the grounds that the stone is not permitted under the Regulations and no good reason has been advanced for allowing an exception. In all other respects (and subject to whether the petitioner wants to re-word the inscription in the manner suggested or something similar to it), even if there are minor infringements of the Regulations, I would permit it. The petitioner is advised to choose a stone which falls within the Regulations.

POSTSCRIPT

15. I have advocated for many years (the last occasion being at the diocesan conference on churchyards held in 2022) that the PCC in parishes where there is a perceived need for there to be an area to allow for a less restricted approach to what is permitted within a churchyard could petition for a separate specified set of local Regulations to apply to a part

of the churchyard. This could apply in areas where the travelling community may want to instal memorials very different to those which would be permitted under the Regulations. If that can be achieved without affecting the setting of the church or of other memorials, perhaps by the use of hedging or some other barrier, then that could be permitted. It may be that this would apply to the particular part of the churchyard in which this petitioner wishes to erect a polished green granite headstone.

His Honour Judge Leonard KC
Chancellor of the Diocese of Ely
21st June 2023