



Faculty application — Churchyard memorial — Grade I listed, medieval village church — Application for a faculty for a memorial falling outside the Churchyard Regulations — Memorial to commemorate the singer/songwriter Marianne Faithfull (1946-2025) — Reverse face of headstone to display a short extract from one of Ms Faithfull's final songs with her carved signature (in cursive script) below — DAC recommending memorial for approval — No objections received — Whether faculty to be granted

Petition No: 11149

IN THE CONSISTORY COURT
OF THE DIOCESE OF OXFORD

Date: Sunday, 7 June 2026

Before:

THE WORSHIPFUL DAVID HODGE KC,
CHANCELLOR

In the matter of:

St Mary the Virgin, Aldworth

THE APPLICATION OF NICHOLAS DUNBAR

Unopposed faculty application determined on the papers and without a hearing.

No objections were received to the application

The Diocesan Advisory Committee recommends the proposal for approval by the court.

The following cases are referred to in the judgment:

Re Christ Church, Harwood [2002] 1 WLR 2055

Re St Giles, Exchall [2021] EACC 1, [2021] PTSR 1622

Re St Mary, Great Chart [2022] ECC Can 2

JUDGMENT

Introduction

1. The church of St Mary, Aldworth is a Grade I listed, medieval village church in the Archdeaconry of Berkshire. It lies within the Aldworth Conservation Area. The churchyard contains the human remains of the celebrated singer and song-writer, Ms Marianne Faithfull (1946-2025), which were laid to rest there on 20 February 2025. By an application, dated 20 March 2026, Ms Faithfull's adult son, Mr Nicholas Dunbar, seeks a faculty for a memorial to commemorate his late mother which falls outside the Churchyard Regulations for the Diocese of Oxford. The intention is for the reverse face of the proposed headstone to display a short extract from one of Ms Faithfull's final songs with her carved signature (in cursive script) below. The Diocesan Advisory Committee has recommended the proposed memorial for approval by the court. No objections have been received to the application. For the reasons that appear below, the court will grant the faculty for which Mr Dunbar asks. The design of the proposed headstone is attractive and well thought through. It will perform the three-fold function of honouring the late Marianne Faithfull, comforting those she has left behind, and informing posterity about her spirituality and creativity, giving vivid expression to her role as a celebrated performance artist. This proposed memorial will serve as a lasting adornment to this churchyard. Its approval reflects this diocese's willingness to welcome well-conceived and attractive commemorative memorials in its churchyards.

The application

2. The applicant seeks a faculty for the introduction into this churchyard of a green slate, honed but unpolished, monolith memorial of grey-green colour, measuring 42 inches above ground level in height, 21 inches wide, and 2 inches thick. The headstone will be inserted straight into the ground, with an additional 18 inches below ground level set into a concrete shoe approved by the National Association of Memorial Masons. The front face of the headstone will include an image of a bird in flight, covering less than one fifth of the surface of the monument, above the name *'Marianne Faithfull'* in capital letters and the dates *'1946-2025'*. According to the petition, there will then be the words: *'She walks in Beauty'*. On the reverse face of the headstone there will be a small image of a sunken gilded moon above the words: *'As below, then so above/ the only thing that stays/ the same is love'* (with the symbol *'/'* denoting line breaks). Below these words, there will be the signature *'Marianne Faithfull'* in cursive script. The lettering will be V-cut by hand and painted grey to match the natural cut surface of the slate. The applicant's special reasons for wanting this particular memorial are as follows: *"My mother was a world-renowned recording artist and songwriter with strong connections to Aldworth. We wish to convey this on the back of the gravestone, with an extract from one of her final songs with her carved signature beneath it. The lyric expresses her spirituality as she returned to the Christian faith in her final years, with the signature expressing her creativity."* I have inserted images of the headstone at the end of this judgment.

3. In the section of the faculty application completed by the incumbent, the vicar (and Area Dean) recognises that the cursive script falls outside the current diocesan Churchyard Regulations. He explains that in consultation with the applicant and the proposed stonemason, the Parochial Church Council (the **PCC**) have discussed at length the suitability of the type and colour of the stone that is proposed for this memorial and its proximity to the church (which is only some four metres away). Having now viewed samples of the proposed material, and with the design height at three foot six inches, the PCC “*are content to ascribe support for this memorial*”. The vicar has no comments about the proposed inscription. The memorial will be situated alongside the main path through the graveyard to the church. The materials and the size are said to be in keeping with the church and the churchyard. The vicar suggests that the memorial is installed ‘*mid-grave*’ rather than immediately adjacent to the footpath, i.e. allowing a gap between the path and the memorial. There is said to be only one adjacent memorial. Unsurprisingly, there are no others like this in the churchyard. The vicar comments:

The PCC have been delighted how much cooperation we have received from the applicant in addressing any queries and concerns, even to the point of arranging samples of material. It has been very much appreciated. The PCC feels that the uniqueness of the application reflects the significance of the person it memorialises (Marianne Faithfull) and has been carefully designed to be in keeping with the church surroundings.

The DAC’s Notification of Advice

4. By its Notification of Advice, dated 30 April 2026, the Diocesan Advisory Committee **recommends** this proposal for approval by the court without any comments or provisos. The DAC advises that in its opinion the proposed memorial is not likely to affect either the character of the church as a building of special architectural or historic interest, or the archaeological importance of the church, or any archaeological remains existing within the church or its curtilage.

The Churchyard Regulations

5. At this juncture, it is appropriate to explain the relevance of the Churchyard Regulations to this application. These exist because there is no right to erect a memorial over any grave without either the permission of the diocesan chancellor, pursuant to the grant of a faculty, or the permission of the incumbent minister in circumstances where the chancellor has delegated authority to the incumbent to grant permission for memorials under churchyard regulations. In principle, the introduction of any item into a consecrated Church of England churchyard requires a faculty. But it is conventional for chancellors to make schemes of delegation by means of ‘*Churchyard Regulations*’, although until very recently these had no formal basis in ecclesiastical statute law. If a memorial does not wholly conform to the specifications set out in the applicable churchyard regulations, the incumbent will lack any delegated authority to permit that memorial. In such a case, it will be necessary to apply to the chancellor for a faculty.

6. The Churchyard Regulations for the Diocese of Oxford were issued by my predecessor on 8 November 2016. They came into operation on 1 January 2017. The applicant’s proposed memorial falls outside the scope of these Regulations. That is because regulation 43 provides that:

Cursive script (that is, a script which gives the appearance of having been written in a running hand) is not permitted.

I assume that the reason for this regulation is to ensure that memorial inscriptions can be read without any difficulty. Interestingly, no similar provision appears within the model form of churchyard regulations recently proposed in a report by a Working Party of the Ecclesiastical Judges’ Association, who have been looking at the churchyard regulations that apply in different

dioceses of the Church of England with a view to seeking to introduce a greater measure of uniformity across the Northern and Southern Provinces of York and Canterbury. This suggests either that there is nothing inherently objectionable in the adoption of a cursive script, or that this issue was not considered by the Working Party. I also note, however, that the model regulations prohibit lettering otherwise than on the principal face of the inscription plate. In the Diocese of Oxford, there is nothing that prohibits lettering on the reverse of a memorial. Since cursive script falls outside the current diocesan Churchyard Regulations, the incumbent minister has no authority to permit the memorial sought in the present case. A faculty is required. What approach should this court take to an application for such a faculty? What test should the court apply?

The legal test

7. Until June 2021, ecclesiastical case law had disclosed two competing approaches to applications for a faculty where there was non-compliance with the relevant Churchyard Regulations: one required ‘exceptional’, ‘powerful’ or ‘substantial’ reasons for departing from the Regulations; the other simply asked whether the proposed memorial was ‘suitable’. In *Re St Giles, Exhall* [2021] EACC 1, [2021] PTSR 1622 the Arches Court of Canterbury (Morag Ellis QC, Dean, Chancellor Turner QC and Chancellor Arlow) considered these different approaches and how churchyard regulations should be used in decision-making. At paragraph 11.8, the Arches Court considered the right approach to be a ‘merits-based’ one:

Clearly, any Regulations in place for the parish or diocese concerned will be part of a matrix of relevant considerations, but we do not think that consideration of a faculty petition should start with a presumption against allowing a memorial outside the parameters of the Regulations ...

8. The Arches Court cited with approval the approach articulated in a number of first-instance judgments. I would summarise this approach as follows:

- (1) As is the case with any faculty petition, the burden of proof lies on the petitioner to show why a faculty should be granted to authorise the particular proposed memorial.
- (2) The terms and content of the applicable churchyard regulations will, of course, be a relevant factor – often highly relevant, and doubtless, on occasion, determinative. But they will only be one of the constellation of infinitely variable factors which the court must consider on a case-by-case basis.
- (3) The court should approach the suitability of the proposed memorial on its own merits, the only constraint being the inability of the court to permit something which is contrary to, or indicative of any departure from, the doctrines of the Church of England in any essential matter.
- (4) Mere non-compliance with the regulations, of itself, can never be the only basis on which to refuse a faculty petition. It is necessary to consider whether the particular memorial in question is inherently desirable, or at any rate not undesirable, whether or not it complies with the standards of the regulations.

The Arches Court noted that this section of their judgment was not essential to the determination of the appeal in the case that was before them; but they expressly stated that they intended it “to be of assistance to chancellors, clergy and all others involved in administering the faculty jurisdiction in relation to memorials in consecrated churchyards”.

9. In *Re St Mary, Great Chart* [2022] ECC Can 2 (in the Diocese of Canterbury) the petitioner wished to install a replacement memorial on his parents’ grave. The design included images of a dove, a stairway to heaven, and two swans. The inscription included a verse of poetry written by the petitioner’s daughter; and it ended with an X (the symbol of a kiss). There was an objection

that the proposed design would not be in keeping with that part of the churchyard where the memorial would be located; and that this might set a precedent for future headstones with designs that were out of kilter with that part of the churchyard. The PCC were supportive of the petition, as was the incumbent; and the DAC had also recommended the design for approval by the court. The Commissary General (Robin Hopkins) granted a faculty for the proposed design of the memorial, subject to a condition relating to the inscription. In the course of his judgment (at paragraph 11), the Commissary General recorded that in assessing the appropriateness of the proposed design, in particular in light of the points of objection, he had derived assistance from the principles discussed in a number of other decisions of the consistory courts of other dioceses. So far as relevant to the instant petition (where there was no issue as to the proposed inscription), the Commissary General highlighted (on a non-exhaustive basis) the following examples of such principles and decisions:

(1) There is no right to erect a monument in a churchyard except by permission granted by a faculty (though this is often delegated to the incumbent minister). Headstone wording and imagery must be consistent with the consecrated status of churchyards; and they must be appropriate, not only from the perspective of petitioners, but also (as far as can reasonably be assessed) for future generations. In *Re Christ Church, Harwood* [2002] 1 WLR 2055 at page 2056, Chancellor Holden put it this way:

The overall beauty and tranquillity of a churchyard is only as good as its constituent parts allow it to be. The rights and interests of private individuals, of the worshipping congregation, of all parishioners, of the local community, and of the Church and society at large all have to be considered in permitting a memorial, which is likely to last for ever, to be placed in a churchyard. There cannot be a carte blanche situation where a family of the deceased has the sole right to decide what is, and what is not, appropriate by way of memorial, not least because ... the family do not own the land in which the remains are placed, or on which the memorial is meant to be placed.

(2) Where a proposed design is contrary to the applicable churchyard regulations, the fact that there are other memorial headstones in the same churchyard that are also contrary to those regulations will not be a sufficient justification without more. On the other hand, the presence of other headstones that similarly fall outside the relevant regulations is a relevant consideration.

(3) It is appropriate to give weight not only to the views of the PCC and the incumbent, but also to pastoral considerations.

In giving reasons for his decision, the Commissary General noted (at paragraph 13 (vi)) that whilst he had given weight to the objectors' concern about the risk of the instant faculty setting a precedent for others in this churchyard, each petition for the introduction of a new, or replacement, headstone would be assessed on its own merits, including by reference to the proposed design, and its positioning in relation to the church and to other headstones. The grant of the faculty in that case did not mean that a faculty would necessarily be granted for other, comparable proposals in the future.

10. Finally, I turn to look for guidance on the issue of the proposed inscription. At paragraph 8.7 of its judgment in *Re St Giles, Exhall* [2021] EACC 1, [2021] PTSR 1622, the Arches Court of Canterbury asked itself (as Chancellor Turner QC had done in argument): "*What is a monument over a grave? What is it there to do?*" The judgment continues:

Answering his own question in the terms of the Church of England's The Churchyards Handbook, he said: 'To honour the dead, to comfort the living and to inform posterity.' None of the counsel disagreed with this formulation and we endorse it as a usefully pithy statement of the purpose of such monuments which we have used to inform our consideration of Ground 1, as well as aspects of the human rights issues. We commend the summary to chancellors and to all others involved in the consideration of memorials within the faculty jurisdiction.

Analysis and conclusions

11. Since this faculty application is not formally opposed, I am satisfied that it is expedient, in the interests of justice, and in furtherance of the overriding objective of the Faculty Jurisdiction Rules 2015 (as amended) of dealing with this case justly, cost-effectively, proportionately, expeditiously, and fairly, for me to determine this petition without any hearing, and on the basis of the materials that have been presented to the court.

12. The issue that arises on this faculty application is whether the applicant has demonstrated that it is desirable – or, at any rate, not undesirable - to permit this particular memorial to be installed within this churchyard even though it fails to comply with one discrete aspect of the applicable churchyard regulations: the use of cursive script for the name of Marianne Faithfull on the reverse face of the proposed headstone. I have no doubt that this is desirable. If, as I think, the rationale for the prohibition against “*a script which gives the appearance of having been written in a running hand*” is to ensure that memorial inscriptions can be read without any difficulty, then that reason has no application to the intended reproduction of Ms Faithfull’s signature. But even if that is not the true rationale for the regulation, I have no hesitation in saying that this particular cursive script should be permitted. It will appear immediately below a short extract from what, according to the application, was one of Ms Faithfull’s final songs. Regulation 38 permits an inscription provided “*it is simple, reverent and not contrary to the doctrine of the Church of England*”. Subject to that overarching limitation, by regulation 39, an inscription may include quotations “*from literary sources*”. A song is clearly a literary source. What could be more expressive of the creativity of any singer-songwriter than a short extract from one of their songs? What could be more expressive of their personality than an image of their signature, reflecting the many occasions during her long musical career when Ms Faithfull must have given joy to her many fans by singing her autograph for them? Further, in matters concerning the appearance of a churchyard, the consistory court should accord great weight to the reasoned views of the incumbent minister and the PCC. Here the minister records that the PCC “*feels that the uniqueness of the application reflects the significance of the person it memorialises (Marianne Faithfull) and has been carefully designed to be in keeping with the church surroundings*”. In such circumstances, it is my judgment that the court should unhesitatingly defer to the reasoned views of the PCC. I will therefore grant the faculty sought, **subject to the condition** “*that the precise location of the memorial within the grave space is to be agreed by the applicant and the stonemason with the incumbent minister in writing, with permission to apply to this court by letter in the event of any irreconcilable disagreement*”. I direct that the memorial is to be installed within six months from the grant of this faculty, or such further period as the court may allow.

13. In accordance with my usual practice, I charge no fee for this written judgment. However, Mr Dunbar must pay any additional costs incurred by the Registry in processing this faculty application.

David R. Hodge

The Worshipful Chancellor Hodge KC

The First Sunday after Trinity

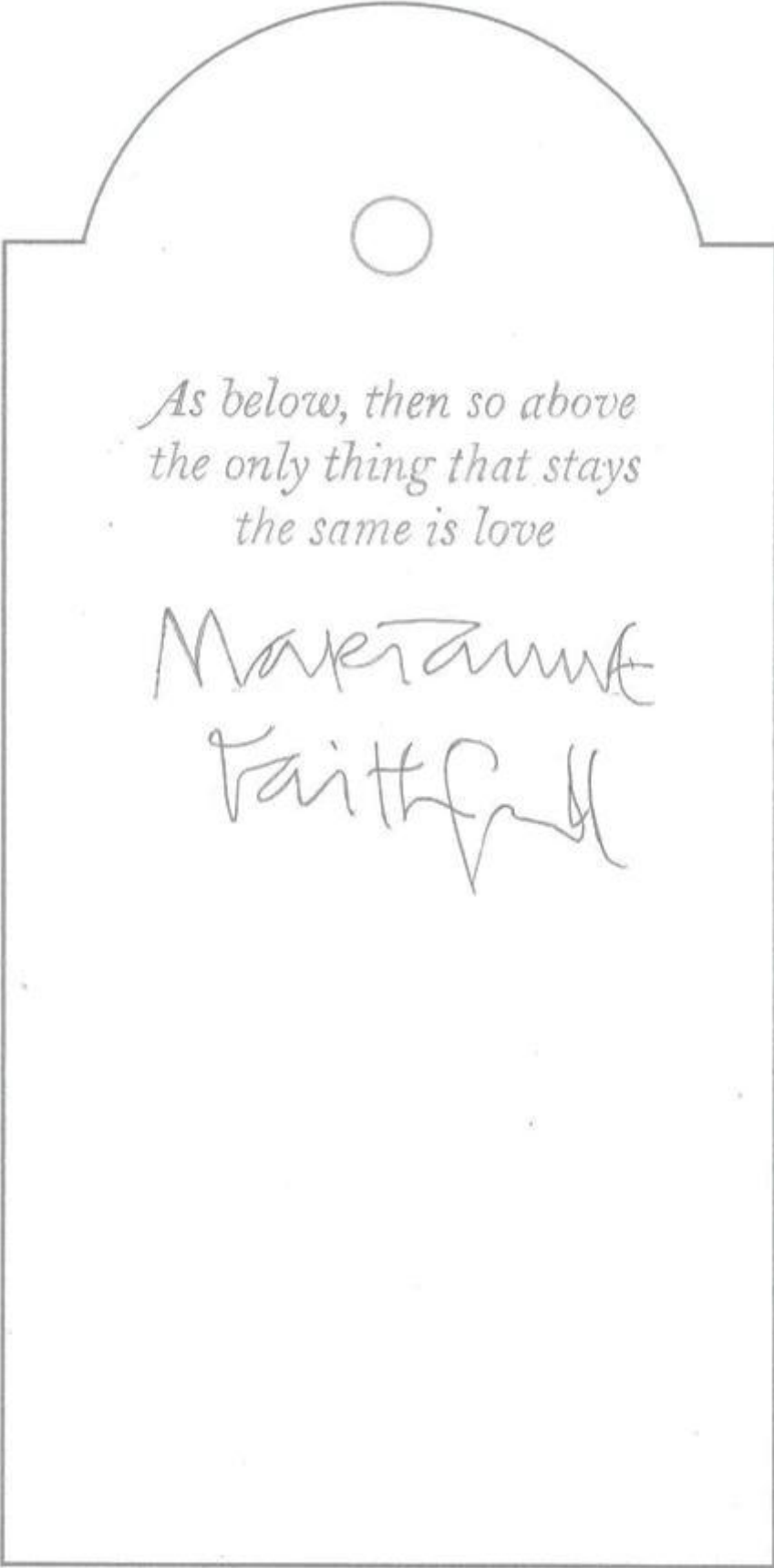
7 June 2026



MARIANNE
FAITHEFULL

1946 - 2025

She walks in beauty



*As below, then so above
the only thing that stays
the same is love*

Maryanne
Faithful