

CONSISTORY COURT OF THE DIOCESE OF ROCHESTER

re St Margaret, Halstead

Introduction

1. When Squadron Leader Gordon Galletly's wife Margaret died, in 2013, she was interred in the churchyard of St Margaret's church, Halstead. A memorial stone was erected over her grave. The memorial was replaced in 2021, because the porous stone had not aged well. Squadron Leader Galletly died in 2024, and his daughter now seeks permission for a new and larger headstone, repeating the details of her late mother and adding his details and the RAF crest (for which the appropriate permission has been obtained). There is nothing at all to object to in the proposed inscription.
2. If this were the whole story, this matter would not call for a written judgment. However, this matter concerns the inclusion of photographs on churchyard memorials. There is, on the plinth of the current memorial, a small ceramic photograph of the petitioner's late mother. No permission for that had been sought or obtained from the court. The petitioner does, however, now petition for the addition of a similar ceramic photograph of her late father to match or mirror that of her late mother.
3. I will treat the petition as being for a confirmatory faculty in respect of the first photograph, and for a prospective faculty in respect of the second. Because of that, it warrants a fully-reasoned decision, which I set out here.

Faculties for memorials – the principles

4. As noted by Hodge Ch in *re All Saints, Calverton* [2021] ECC Oxf 7,

“In considering the suitability of a proposed memorial, the court should bear firmly in mind the threefold purpose of a grave memorial, which is to honour the dead, to comfort

the living, and to inform posterity about the deceased. The first purpose infuses the other two and must be considered in the Christian context of the setting of a Church of England graveyard to which members of the public have access. Such cases are always sensitive, both to the facts, and to the personalities involved, and they involve reconciling legal principle with personal wishes in a public context which is distinctively Christian. In particular, the court must have regard to the longer-term view and the wider public aspect in ways which may be less apparent to the family of the deceased, who will inevitably be caught up in their personal bereavement. What may be permitted in the unconsecrated parts of a local authority cemetery may not be appropriate in the setting of a Church of England graveyard.”

5. Following the dicta in the judgment of the Court of Arches in *re St Giles, Exhall* [2021] EACC 1, the court does not require a petitioner to satisfy any exceptionality test before a faculty for a memorial would be granted. The court said, at paragraph 11.8:

“We consider that the right approach is the 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 [...]”

6. As I have noted previously, the burden of proof always lies on the petitioner to persuade the court to grant a faculty; to that limited extent, there is a presumption, or default position, that no faculty will be granted. But the petitioner simply has to satisfy that burden of proof by establishing, to the usual civil standard of the balance of probabilities, that there is a good reason why the faculty should be granted. Broadly, the more egregious the departure from the Regulations, the more justification would be required before the burden of proof is discharged. And the court will always want to be alive to particular issues concerning the individual

churchyard concerned, which is why the views of the incumbent and PCC are relevant.

Confirmatory faculties – the principles

7. As a general principle, a confirmatory faculty should only be granted if a faculty would have been granted for the work if one had been sought at the appropriate time, before the work was carried out: see, for example, *re Buncton, All Saints* [2018] ECC Chi 1. It requires exceptional circumstances to diverge from this principle; and the mere fact that work has been carried out without authorisation, and expenditure incurred, is not a relevant factor.
8. It is clear that pastoral reasons can be sufficiently compelling to warrant the grant of a confirmatory faculty for a memorial in circumstances where a prospective faculty would not have been granted. However, recent cases where this has been found to be the case have tended to have the distinguishing feature that those in positions of responsibility in the parish had been involved, even to the point of approving the memorial, before its introduction: see for example *re Middleton, St Mary* [2022] ECC Lee 3 and *re Kinson, St Andrew* [2024] ECC Sal 3.

Photographs on memorials

9. A refusal to permit photographs on memorials was one of the most universal aspects of older versions of Diocesan Churchyard Regulations across the Church of England, which were recently collated and analysed by the Ecclesiastical Judges Association's Working Group on Churchyard Regulations. The Regulations in over three quarters of all dioceses expressly prohibited them; and in the remainder, they were generally prohibited by implication. In none were photographs expressly permitted.
10. In the new model Regulations being introduced (with some variations) across the Church of England following the recommendations of that Working Group, any motif, emblem or image on a memorial is only permitted if it "is of a character

commonly found in churchyard memorials”. Given the previous history, this plainly excludes photographs.

The present case: the original memorial

11. I am told that the original, 2013, memorial included a small ceramic photograph of Margaret Galletly on the headstone. I accept this, although I should record that I have seen no photographs of that earlier memorial. In order for the photograph to be a lawful introduction, it would have required the authority of a faculty; and there is no evidence in the Registry files that any such faculty was applied for. I am in no doubt that, had it been, it would have been refused. The present incumbent, the Revd Tim Edwards, has been in office since 2017, and therefore has no knowledge of any discussion with his predecessor, or the PCC, concerning the photograph at the time.
12. I note in passing that if the photograph had remained on the headstone since 2013, it would by now be too late for me to require its removal, save as a condition to the grant of a permissive faculty.

The replacement memorial

13. In the papers submitted in support of the present petition, there is a curious document. On its face it appears to be a signed and dated faculty petition by Squadron Leader Galletly concerning the 2021 replacement of his late wife’s memorial; but there is no evidence that such a petition was ever, in fact, lodged. I shall refer to it as the draft petition. The draft petition suggests that the proposal was for a like-for-like replacement for the existing, weathered stone; but it gives no indication either that the old memorial had a photograph attached, or that the photograph would be transferred to the new one. If, therefore, a petition had been filed in accordance with the draft petition, then the inclusion of any photograph would have rendered the memorial non-compliant with the permission that would undoubtedly have been given.

14. There are differing recollections of the specific approvals sought: from the petitioner, who says:

“To enhance the grave and the churchyard, my father applied and organised a new headstone, with the same wording and photograph of my mother, which was removed from the original and put on the new plinth. This was agreed by St Margaret’s.”

and the incumbent, who is clear that he hasn’t given permission for anything to do with a photograph on the memorial. I can only speculate that either the draft petition was submitted to the parish and the incumbent, being unaware of the existence of a photograph, permitted the replacement stone to be installed; or that the replacement memorial was agreed by another, unknown, means. Whatever the position, the authority of a faculty should have (again) been sought in 2021.

The present petition

15. As I have indicated, the petitioner seeks permission for a memorial headstone including two ceramic photographs. The reason put forward by the petitioner is this:

“He particularly wanted the small ceramic photograph of his wife to be displayed unobtrusively on the headstone plinth which was on her headstone previously, from 2013. I would therefore like a similar small photograph of my father added to the plinth on the opposite side.”

16. I should record that the petition has the support of the incumbent; and the DAC raises no objection to the photographs, on pastoral grounds, since one photograph is already in place.

Discussion

17. As noted above, the court’s task *“involve[s] reconciling legal principle with personal wishes in a public context which is distinctively Christian. In particular, the court must have regard to the longer-term view and the wider public aspect in ways which may be less*

apparent to the family of the deceased, who will inevitably be caught up in their personal bereavement.” I have set out above the relevant legal principle, which is that the presence of photographs would be an egregious and significant departure both from the existing Churchyard Regulations of the Diocese and the position common across the Church of England; and therefore would need a significantly good reason for allowing it. I have also set out the reasons for the petitioner’s personal wishes.

18. I am grateful for the advice of the DAC in this matter, and I take full note of it. However, I have concerns that the pastoral difficulties which can be expected to arise in the future, if other bereaved families are told that they are not permitted to have photographs on their loved one’s memorial despite their perpetual presence on this one, are not adequately weighed in the balance – for perfectly understandable reasons, since they are future and to some extent hypothetical, whereas the immediate pastoral concern is present and real.
19. I appreciate that this is not what the petitioner wants to hear, but I am clear that the reason given is insufficient to displace the strong presumption against photographs on memorials. As it happens, Squadron Leader Galletly had his wish, during his lifetime, that there be a photograph of his wife on her memorial (albeit without lawful authority). But now is an appropriate moment to return matters to how they should always have been.
20. I will grant a faculty for the proposed memorial, but subject to the condition that there will be no photographs affixed or displayed on it.
21. I waive my fee for preparing this judgment.

The Wp^{ful} David Willink
Chancellor

12 July 2026