

Neutral Citation Number: [2018] ECC Wor 4

In the consistory court of the Diocese of Worcester

Archdeaconry of Worcester

Parish of Hallow: Church of St Philip and St James

Faculty petition 18-41 relating to introduction of memorial with cover slab

Judgment

1. The Church of St Philip and St James, Hallow is a large Victorian church, built in the 1860s, and is listed Grade II*.

The churchyard

2. There is a large churchyard, to both south and north of the church building. The section that is currently in use is the large area to the north of the church. The greater part of this northern area is divided into two parts by a roadway running east-west.
3. The great majority of recent burials – or at any rate of those that are commemorated by memorials – are to the north of this roadway. Almost all of the burials in this area are commemorated by memorials of a standard kind, consisting a vertical stone, with no kerb. The principal exceptions are two large memorials to family groups, which are completely out of keeping with those around them – these appear to have been erected without authority. There is also a small area of slightly smaller headstones, commemorating the burials of children.

4. To the south, between the roadway and the church itself, is a large area of a broadly open character. This appears to have been used for burials, as there are some memorials, but few recent ones.

The proposal

5. The petitioner is Mr Charles Sier. His late wife, Mrs Eileen Sier, died on 16 November 2017. Her parents, Mr Albert Brooker and Mrs Mabel Brooker, died in 1986 and 1961 respectively. Mrs Brooker's body and the ashes of Mr Brooker are buried, in a plot ("Plot A") in the area to the south of the roadway. Plot A is next to the plot containing the bodies of Mrs Brooker's parents (Mrs Sier's grandparents) ("Plot B").
6. Mr Sier now wishes that Mrs Sier's ashes be buried in Plot A, along with the body of her mother and the ashes of her father, and that a memorial be placed there to commemorate all three.
7. The memorial would be to a design shown in the stonemason's leaflet supplied with the petition as "ET65 White Pearl". That pattern appears to be from a range known as the "Memorial Collection", manufactured by Euro-Trace Memorials Ltd. It consists of two elements, a vertical slab with curved top containing the wording of the epitaph, and what is described by the mason as a "cover slab" – that is, a horizontal stone slab covering the whole grave, raised slightly above ground level on rectangular slabs at the foot of the grave and to either side. There would also be small corner piers at the foot of the grave, to accommodate flowers. The colour of the "white pearl" stone – if the photograph in the leaflet is accurate – is actually pale grey.
8. There is reference in the papers to a "kerb set" (in the description by Mr Sier accompanying the petition), "stone curbing" (in the PCC resolution) and "kerbstones" (as described by the Deputy Registrar). However, each of those

phrases is normally used to describe a stone surround to a turfed or planted area above the grave. I consider that the mason's description is more accurate.

9. The proposed wording is as follows:

ALBERT BROOKER 22.08.1899 – 17.06.1986

MABEL BROOKER 12.02.1899 – 15.03.1961

EILEEN MURIEL SIER 19.05-1927 – 16.11.2017

Objection

10. The Vicar has stated that he is unable to support this proposal for “a number of reasons”. The primary one is that memorials of this type have not been permitted for many years – although he does not say why this is. His second reason is that the proposed memorial does not conform to the diocesan guidelines. And his third reason is that such a memorial would inhibit maintenance

11. The PCC objects on the basis that this would cause maintenance problems. It would also set a precedent that might be followed by others – causing major issues for maintenance. It would also breach diocesan rules.

Procedure

12. By a letter dated 1 October 2018, the Registrar asked the incumbent whether he or the PCC wished to become a party opponent, and advised him that if particulars of objection were not received within 21 days, they would be treated as having chosen not to become parties opponent. As far as I am aware, no reply has been received, so I assume that they are content to rely on the written representations they have already made.

13. I visited the churchyard on 5 October 2018, since I happened to be in the Diocese for other reasons.

The legal position

14. In accordance with the normal procedure applying in every diocese, I have generally delegated to incumbents the power to authorise memorials. However, this applies only if the memorials comply with any guidelines specific to the churchyard in question or, in the absence of such guidelines, if they comply with the Diocesan guidelines. There are apparently no guidelines specific to this churchyard.
15. The Diocesan guidelines do not allow kerbed memorials, principally because any memorial consisting of more than a straightforward headstone – possibly on a modest base – hinders the efficient maintenance of churchyards, in that they prevent mowing of the grass round the memorial.
16. Anyone is entitled to petition for a faculty to authorise the introduction of a non-conforming memorial if they feel that there is a reason to justify it.

This case

17. The Vicar says that no memorial of the type now proposed has been permitted for many years. That is as it should be, since he has no authority to justify such a memorial. As far as I am aware, one has not been authorised by faculty at Hallow for at least twenty years.
18. The Vicar and the PCC have both raised the point that the memorial does not comply with Diocesan guidelines. As I have already noted, the reason for this is that it includes a cover slab. And one of the principal reasons why a memorial with kerbstones or a cover slab is not permitted by the Diocesan guidelines is because

memorials consisting of more than a straightforward headstone – possibly on a modest base – impede the efficient maintenance of the churchyard.

19. From this I conclude that the only specific issue raised by either the incumbent or the PCC is the maintenance problem.
20. I observed when I visited the churchyard that there are several memorials with kerbs within the area where Mr Siers wishes to introduce his memorial – that is, between the north side of the church and the driveway. However, the most recent of those dates from 1953, which appears to have been remade; one was from 1948; and the remainder pre-dated the Second World War, and are therefore now eighty years old. There are a number with kerbs from the 1950s, but in a separate area to the eastern end of the churchyard. And almost none of those to the north of the driveway have kerbs – indeed I very recently refused to authorise such a memorial in the area reserved for children’s graves.
21. Mr Siers, in support of his proposal, suggests that “at this moment in time one cannot put flowers or plants on the grave, before they get eaten by some animal”.

Discussion

22. As I have noted above, the Diocesan guidelines do permit incumbents to authorise certain types of memorials – including those that are normally preferred. Where a churchyard has particular characteristics – notably where the memorials are all of a particular size or material – it is always open to a parish to seek to publish more restrictive guidelines applying to a particular churchyard, or indeed a particular part of a churchyard.
23. I have already noted that the Diocesan guidelines, in common with those in most if not all other dioceses, do not allow kerbed memorials, principally because any

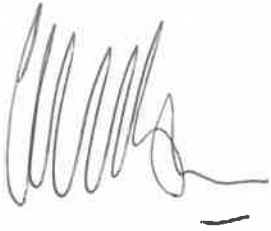
memorial consisting of more than a straightforward headstone – possibly on a modest base – hinders the efficient maintenance of churchyards. Such memorials can also be visually obtrusive in a churchyard that generally has simple vertical headstones surrounded by turf, because they are larger and much more prominent; and they may encourage the accretion of plastic flowers and other objects, which can be unsightly.

24. I observe that the “Memorial Collection”, from which the memorial proposed in this case has been selected, features a large selection of what are referred to as “cemetery memorials”, which feature a wide variety of shapes and styles. There is also a further selection of “kerb sets”, including ET65. And there is a rather more limited selection of “churchyard memorials”, which feature simple vertical headstones, albeit again in a range of styles and materials. This reflects the fact that the styles suitable for a municipal cemetery are likely to be more varied than those that are more suitable for a churchyard.
25. As I have also noted above, anyone is entitled to petition for a faculty to authorise the introduction of a non-conforming memorial if they feel that there is a reason to justify it. One example might be where a number of other non-conforming memorials have been introduced in recent years in the same part of the churchyard – either under the authority of guidelines specific to the churchyard in question, or under a faculty. And occasionally the rules may have been flouted for many years in a particular churchyard to such an extent that it would be unreasonable not to allow a further similar non-conforming memorial. And in other cases a proposal may be non-standard, but of sufficient merit to justify departure from the pattern of those around it.
26. In this case, however, there seems to be no particular justification for departing from the norm. The usual problems with churchyard maintenance will apply here as elsewhere. There has been no noticeable departure from the general pattern of

vertical headstones on the south side of the driveway (or indeed on the north side) – for many years. And the general pattern to the south of the driveway is open grass, where a memorial of the type proposed would be particularly noticeable.

27. I see no particular reason why animals are likely to eat flowers and plants at this location any more than in any other churchyard.
28. And I can see that, although each case will always be determined on its merits, it would be more difficult to resist future proposals for memorials of this type if this one has been allowed – if only due to considerations of basic fairness.
29. I am therefore not willing to authorise the memorial currently proposed.
30. I realise that this will, of course, be a disappointment to Mr Sier. And in order to avoid any further delay, I am willing to authorise a memorial consisting of a standard vertical headstone, similar to the vertical element of the one that has been proposed.
31. I observe that memorial ET112 in the Memorial Collection is the same shape (with a curved top) as the vertical element of ET65; and that all materials and designs are interchangeable, so that it could be supplied in the white pearl (grey) that Mr Siers has selected. I therefore authorise a memorial in that form, with the inscription that has already been proposed, and with or without a space for a vase. He may also wish to consider whether it would be prudent to allow a space below the details of his wife, in case his ashes are also to be buried there.
32. Clearly Mr Siers will need to consider whether he is content to select a memorial in the form that I have authorised – in which case he can commission it straight away

without further ado – or whether he wishes an alternative pattern, which would need to be authorised by the Vicar in the usual way.

A handwritten signature in black ink, appearing to read 'C. Mynors', with a horizontal line underneath.

CHARLES MYNORS

Chancellor

30 November 2018