

Re All Saints, Crawley Down

Judgment

1. By a petition dated 19 November 2009, the Reverend Antony Hale, incumbent of All Saints, Crawley Down, together with the churchwarden, Mr Ralph Harris, seek a faculty to create a new area for cremated remains within the churchyard and to introduce into the church a Book of Remembrance to be housed in a cabinet.
2. During the period of Public Notice a letter was received in the Registry from Mr Brian J Moore, a reader licensed to the parish and on its electoral roll. The letter, expressed with moderation, did not take issue with the creation of the new area as such, but with the proposal to discontinue with the practice of introducing individual marker stones of ledgers.
3. Following the statutory election under rule 16(3) of the Faculty Jurisdiction Rules 2000, Mr Moore elected not to deliver to the registrar formal written particulars of objection in Form No 4 thereby becoming a party to the proceedings. Instead he informed the registrar that he wished his letter to be taken into account by me in making my adjudication. He included some additional comments and I therefore give full regard to the content of Mr Moore's first letter dated 6 February 2010, as well as to that of his second letter of 3 March 2010. I should note that Mr Moore stated towards the end of his second letter: 'If, however, I or the parish are likely to be saddled with additional costs by forwarding this letter, then please let my original objection go forward without it'. The further costs of this written judgment have arisen because of the original letter, the points of amplification in the second letter being *de minimis*, and these fall to be borne by the Parochial Church Council.
4. I afforded the petitioners the opportunity of responding to Mr Moore's letters but they declined to do so, on the basis that their case was adequately set out in the papers already before me. I must therefore determine this petition having regard to the following:
 - i. the petition and accompanying documents;
 - ii. the Statement of Need;
 - iii. the Statement of Significance;
 - iv. the DAC certificate recommending the proposal, subject to a small proviso regarding quality of the Book of Remembrance;
 - v. the letters from Mr Moore.
5. I note that the consultation and design process began in about January 2009 and continued until October. It appears to have been thoughtful and thorough. The

proposed site extends to some 70 square metres and lies in the north eastern part of the churchyard. It was formerly used for bonfires, and this proposal involves rotavating, reseeding and some limited landscaping of the area including planting of shrubs. It will not impact upon that part of the churchyard where an extension of the church is contemplated and which may be the subject of a future petition for a faculty.

6. It would appear that from about 1971 a designated part of the churchyard, some 64 metres in area, lying to the north of the vestry was used for the burial of cremated remains in individual plots, many marked by individual stone plaques. It does not appear that a faculty was obtained for this at the time nor has it been regularized since. Between July 2009 and November 2009 when the matter was referred to the DAC, there have been four burials of cremated remains in an area adjacent to the western boundary of the churchyard which has been set aside for this purpose.
7. It is intended that the new site to be established be used and managed in accordance with paragraph 6.9 and Appendix F of the *Chancellor's General Directions Concerning Churches and Churchyards* (Issue 2, Easter 2007). In particular the cremated remains will be poured into the ground and not buried in caskets and no permanent or temporary markers will be permitted. This will allow for re-use of the Garden of Remembrance once it is full, which on current usage, will be in approximately 42 years.
8. Mr Moore's objection is not with the underlying proposal nor with the creation of a Garden of Remembrance as such, but with the PCC's decision to cease the practice of permitting the introduction of individual marker stones or ledgers which he says:

'will cause much unnecessary offence, hurt and anguish to relatives of the deceased at a time when the Church should be trying to support and comfort them, not to antagonise them.'

Whilst Mr Moore concedes that the *General Directions* might be appropriate in an urban setting, he maintains that, 'this diocesan policy is fundamentally wrong for a village church like Crawley Down'.
9. Mr Moore says there is no substitute for leaving a tribute at an individual marked grave. He speaks in particular of stones marking the remains of his wife, son, parents and parents-in-law. He refers to the duty under section 1 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991 for those concerned with the care and conservation of church buildings to have due regard to the role of the church as a local centre of worship and mission. Although this proposal falls outside the strict definition of care and conservation, the broad principle is general application, but I do not detect anything that is intended which contravenes it. Any change of policy needs sensitive handling, and I am confident that Mr Moore, in common with his colleagues, both ordained and lay, in the Ministry Team will commit to the new policy and not seek to undermine it. It should be

noted that even if a policy of the PCC with regard to a churchyard is endorsed by faculty, it does not preclude a petitioner seeking his or her own faculty which would involve a departure from that policy, and any such applications will be treated on their merits on a case by case basis.

10. The churchyard forms part of the incumbent's freehold. The duty to maintain the churchyard falls on the PCC: see section 4(ii)(c) of the Parochial Church Councils (Powers) Measure 1956. Both the incumbent and the PCC have come to the view that the practice of individual markers should cease. Mr Moore states: 'It is not as if at Crawley Down we are so short of space that we must now forbid future marked cremated remains graves'; but this does not negate the reasoning behind the PCC's decision which would bring the churchyard into close conformity with the *General Directions*, albeit it does not legitimize what has gone before. Mr Moore voted against the proposal and indicates that he may not have been the only member of the Ministry Team to do so. However, no-one else has voiced any objection to the proposal. I am in no doubt that the Garden of Remembrance will be a significant aesthetic improvement on the plot previously used, which is clearly unsightly even if one makes allowance for the recent snow at the time of Mr Moore's photographs.
11. Mr Moore makes muted criticism of the proposal to introduce a representation of Christ in the centre of the Garden of Remembrance, suggesting it may be a 'craven image'. I think this concern is misplaced. There is a long history of funerary art in places of burial and I do not consider that 'financial stringency' is a compelling reason for not expending money on the erection of an appropriate point of focus. In the absence of illegality or bad faith, the Consistory Court does not scrutinize the use which the PCC makes of its charitable funds in pursuit of its statutory duties.
12. Mr Moore states that he is a member of the church's Ministry Team, with a permission to officiate. He has been licensed as a reader since 16 September 1995. He has permission to conduct funeral services and has done so including the burial of cremated remains. He says he has given 100% support to the vicar, churchwardens and PCC and raises his objection in this particular instance with a very heavy heart.
13. Whilst noting his concerns, sincerely held, I am in no doubt that the petitioners have made out a strong and compelling case for the faculty which they seek. It is a well-thought out and wise proposal which, with the goodwill of all concerned, can be made to work in Crawley Down without any deleterious effect upon the pastoral work of the parish and the worship and mission of the Church of England.
14. I therefore order that a faculty pass the seal on condition:
 - i. that details of a quality book of remembrance and cabinet be submitted for the Chancellor's approval within 28 days;

- ii. that draft Regulations along the lines indicated in Appendix F of the *General Directions* be submitted for the Chancellor's approval before any burial of cremated remains take place;
- iii. that care be taken in the selection of trees and shrubs as advised by the DAC;
- iv. that a further petition for a faculty for a specially commissioned representation of Christ be made within 2 years of the grant of this faculty and following consultation with the DAC;
- v. that the proposals are otherwise to be completed within 12 months of the grant of this faculty and signed off by the inspecting architect;
- vi. that this faculty is not implemented until the additional fees for this judgment have been paid by the PCC.

The Worshipful Mark Hill QC
Chancellor of the Diocese of Chichester

5 May 2010