

Re St Mary, Westham

Judgment

1. By a petition dated 14 September 2009, Miss K J Blackwell seeks a faculty for the erection of a headstone over the grave of the late Helena Margaret Blackwell, her mother.
2. An application dated 3 April 2009 was submitted to the Reverend Gary Barrett, incumbent of St Mary's, Westham signed by the current applicant and a Mrs D Poole (whom I take to be a grand-daughter of the late Helena Margaret Blackwell) together with Ms Angelika Wickes, of L F Tookey & Sons, monumental masons.
3. Mr Barrett declined to give his approval to introduce the headstone, marking the application (entirely properly) as follows: 'Sorry – but I do not have the authority to agree to the inscription'. Mr Barrett was referring to the delegated authority of parish priests within the Diocese of Chichester to permit the introduction of certain monuments falling within specific categories specified in the Churchyard Regulations at Appendix D to the Chancellor's General Directions of 2007.
4. If the proposal falls outside the Regulations, the parish priest has no discretion. He would be acting unlawfully were he to purport to give permission and could expose himself to censure and/or an adverse award of court costs, and have his delegated authority removed: see *Re All Saints and St Nicolas, Icklesham* (2007). Mr Barrett's concern was with the inscription, particularly the term 'Mummy' which he took to be a pet name not within paragraph (v) of the Regulations dealing with inscriptions.

Procedure

5. In the papers before me, Miss Blackwell's application is occasionally referred to as an 'appeal'. It is not. And I should like to take this opportunity of attempting, once more, to disabuse the diocese in general of this widespread myth. Let me reduce it to a number of simple propositions:
 - i. the nature and type of monuments which may be introduced into a churchyard are unlimited;
 - ii. decisions are made by the chancellor on a case by case basis;
 - iii. the burden of proof lies on the petitioner, and a compelling argument must be made in each instance;
 - iv. in reaching his decision the chancellor will take into account the nature of the churchyard, or part of the churchyard, and the setting which it provides for the church, as well as the type and quality of existing memorials;

- v. the Churchyard Regulations do not provide a definitive list of those monuments which are, or are not, permitted in a churchyard;
 - vi. all the Regulations do is list the categories and types of monument which a parish priest has delegated authority to sanction;
 - vii. if a proposed monument falls outside the Regulations the priest may not permit its introduction. There is no authority to do so. If it falls within the Regulations he or she may permit its introduction but is not obliged to do so;
 - viii. there is no such thing as a prohibited headstone;
 - ix. however a headstone may not be introduced into a churchyard without lawful authority;
 - x. such authority comes either in the form of a faculty from the chancellor or (if, and only if, the proposal falls within the Churchyard Regulations) with the written permission of the parish priest, exercising delegated authority from the chancellor;
 - xi. a headstone which is introduced unlawfully is liable to be removed.
6. Here, with the exception of his inaccurate use of the term ‘appeal’, Mr Barrett, and the PCC, have acted in an exemplary fashion. Mr Barrett recognized that the proposal fell outside the Churchyard Regulations, and (whatever his view on the merits) he was precluded from giving his authority. He advised Miss Blackwell that she might seek a faculty and this she has done. It falls to me to consider the matter on its merits. I am pleased to record in this judgment the consistent thanks expressed by Miss Blackwell for the pastoral support and other ministrations of Mr Barrett.

The proposal

7. The proposal is for an upright stone, the left hand side of which is to bear the proposed inscription for the late Mrs Blackwell, with the right hand side left blank with the intention that additional wording be added following Miss Blackwell’s own burial in the double grave space. The memorial seems to be a factory design, and probably chosen from a catalogue. The DAC, at one stage, was under the misapprehension that what was proposed was an ‘open book’ monument but this has been corrected.
8. The controversial element concerns the inscription and the term ‘Mummy’ in particular, which being in the nature of a pet name, falls outside the Regulations. It is worth recording that the Regulations remind the bereaved that:
- ‘A memorial stone is not the right place for a statement about how members of the family feel about the deceased nor how they would address him or her were they still alive.’
9. In support of her petition, Miss Blackwell makes the following points:
- i. that from 1948 her parents were addressed as ‘Mummy’ and ‘Daddy’;
 - ii. that they had 11 children;
 - iii. ‘Mummy’ is often considered to be the first word uttered by a child;

- iv. Mrs Blackwell lived to 84, was a devoted mother, and will continue to be loved and respected by generations of children, grandchildren and great-grandchildren.
10. The PCC considered the matter in its meeting on 22 September 2009. It noted that it had always been its policy to conform to the Chancellor's General Directions Concerning Churches and Churchyards and did not consider it appropriate for personal family epitaphs on monuments in historic churchyards. It noted that such proposals had been suggested in the past but refused and generally the relatives had revised the intended inscription. The PCC considered that were this proposal to be permitted, those who had been refused in the past would feel a sense of grievance and this might result in pastoral difficulties.

Assessment

11. In the exercise of my discretion, I take into account the following factors:
- i. the fact that similarly worded epitaphs have been routinely rejected in the past is a significant factor. However, those persons have been told of their right to seek a faculty and have chosen not to do so. My discretion cannot be fettered because potential applicants in the past have elected not to petition the Consistory Court;
 - ii. the strict rules of precedent have no place in the Consistory Court. Each decision turns on its own individual and specific facts. There can be no question of my determination in this matter establishing a precedent for this parish or for the diocese as a whole. The Churchyard Regulations will not change. In the future, Mr Barrett and his successors will still be obliged to refuse permission for similar inscriptions, and if any other applicant wishes something similar they will still need to petition for a faculty and make out a compelling case;
 - iii. I am, however, troubled by the nature of the proposed inscription for several reasons:
 - (a) the term 'Mummy' is a form of address limited to the late Mrs Blackwell's children. I imagine her grandchildren, great-grandchildren, siblings, nephews and nieces had their own terms of endearment for her. Friends, both locally and further afield would likewise have had different terms by which she was known. Motherhood was doubtless very significant to Mrs Blackwell, and she is clearly held in high regard by her daughter, but there is a real risk that the memory of Mrs Blackwell will be inadvertently diminished by apparently restricting it merely to that of mother and ignoring the other aspects of her person. In years to come, friends and more distant descendants might read the inscription as excluding them. This might cause legitimate upset;
 - (b) after 'Mummy' the proposed inscription goes on to refer to 'Dennis William Blackwell'. It is not entirely clear from the papers who he is, but I imagine he was Mrs Blackwell's husband. If that is so, then the term 'Mummy' immediately above is inaccurate,

misleading and inappropriate. It simply does not make logical sense;

- iv. I note that this headstone is proposed for the new part of the churchyard. It may be, as it is separate and distinct, that something can be allowed in this section which would not be allowed in the older, traditional part.
 - v. the letter dated 17 November 2009 from the DAC has been of limited assistance. It proceeds in the mistaken belief that the proposed headstone is of the open book variety, and perpetuates the misapprehension (which I have addressed elsewhere in this judgment) that certain types of monument or inscription are prohibited by the Churchyard Regulations. It says nothing on the aesthetic merits of the proposed headstone or its setting, where I would have very much appreciated its professional input.
12. Balancing all these factors as best I can, it seems to me clear that Miss Blackwell has a strong emotional desire to include the expression ‘Mummy’ on the memorial, such that she cannot see how for anyone who was not a child of Mrs Blackwell, the inscription may appear exclusive (not inclusive) and how in years to come, descendants of her mother will regard it as strange that everyone except her immediate first generation lineal descendants seem to have been ‘written out’ of her life. A more appropriate and inclusive inscription which would embrace successive generations would be to replace the last four lines of text with:
- A devoted
wife, mother
and grandmother
13. I would encourage Miss Blackwell to think again, and to try and see it from the point of view of others as well as herself, both within her family and beyond. She might also care to talk it through with Mr Barrett. I hope she will come to see that the wording I propose (or something similar, and possibly fuller, to be worked out with Mr Barrett) is more suitable in that it embraces the successive generations who loved, and were loved by, Mrs Blackwell. They, together with others yet unborn, will be able to tend the grave long after Miss Blackwell has passed away, without being put off by the suggestion (which I am sure is unintended) that Mrs Blackwell was held in affection only by her immediate children.
14. If, after reflection and consultation with her family, Miss Blackwell is of the sincere view that the only term she will tolerate on the memorial is ‘Mummy’ then I will agree to it, and she will have to shoulder the potential misunderstanding or offence that it might cause. Before any memorial is erected, however, the signatures of Mrs Blackwell’s children, grandchildren and (if applicable) great-grandchildren, together with any siblings, are to be lodged with the Registry, indicating that they have read this judgment and consent to the inscription proposed by Miss Blackwell. The additional fees occasioned by this judgment are to be paid by the petitioner in accordance with the long-standing practice of the court, and such fees must be settled in full before the memorial is erected.

15. I repeat, this is an exceptional case, and does not set a precedent either at St Mary, Westham or elsewhere in the diocese. The full force and effect of the Churchyard Regulations are unaffected.

The Worshipful Mark Hill QC
Chancellor of the Diocese of Chichester

15 December 2009