

In the matter of All Saints, Herstmonceux

Judgment

1. By a petition dated 11 December 2010, Mrs Hilary Stroude seeks a faculty for the erection in the churchyard of All Saints, Herstmonceux of a headstone to mark the grave of her mother, the late Mrs G Hilary Preedy.

Background

2. Mrs Preedy died on 31 May 2009. A pro forma application dated 12 June 2010 seeking permission for the introduction of a memorial into the churchyard under the *Churchyard Regulations* was lodged by Mrs Gill Fryzer representing the family of Mrs Preedy and she signed the requisite declarations, including the one claiming that the incumbent had authority to permit the introduction of the memorial in that it complied with the *Churchyard Regulations*.
3. Mr Gerald Stone, churchwarden, wrote to Mrs Stroude on 4 December 2010 setting out resolutions of the PCC made at meetings on 27 September 2010 and 30 November 2010. Those resolutions were to decline to permit the introduction of the memorial and Mr Stone explained that the decision had been informed by the *Chancellor's General Directions*. Although there is some confusion, it would appear that the Reverend Su Marshall had already communicated this refusal to Mrs Fryzer, as had Mr Dennis Manning, another churchwarden, to Hailsham Funeral Services. The concern of the parish, so it seems to me, was that the headstone was surmounted by a carved Celtic cross which they considered to be impermissible within the terms of the *Churchyard Regulations*, being Appendix D of the Directions.
4. It would appear that the design upon which the Reverend Su Marshall commented differed from that which was duly proposed, and Mrs Stroude's letter of 6 September 2010 outlines the chronology of events which may have given rise to the confusion. The letter also voices concern that the regulations concerning headstones was not drawn to the family's attention at the time they chose All Saints, Herstmonceux for Mrs Preedy's burial.
5. An undated note headed "Justification for the design ..." on the notepaper of Hilary Stroude speaks of Mrs Preedy's devout Christian faith and the ill health which dogged her latter years. A photograph of the type of stone proposed was provided with the note (from the grave of one Tom Boyle), its dimensions being 3'6 x 2'3 x 0'4.
6. When the papers were referred to me in June 2011, it seemed obvious that as the matter was disputed, a hearing would be necessary and I indicated a date would need to be fixed. A letter dated 23 June 2011 sent by Mr W A Fryzer, the husband of Mrs Gill Fryzer (and son-in-law of Mrs Preedy) with the apparent authority of the petitioner and her sisters indicated

that they would rather the matter would be determined on written representations. The letter then helpfully and lucidly proceeded to make a series of orderly representations, beginning by resolving the confusion occasioned by parallel applications at the outset.

7. Mr Fryzer's letter candidly concedes that, for perhaps understandable reasons, the petition did not address sufficiently – or at all – the matters which the Court will need to consider if in the exercise of its discretion it is to issue a faculty. Mr Fryzer then sets out the reasoning of his wife and of Mrs Stroude which lies behind the petition which I hope I fairly summarise as follows. Mrs Preedy, raised as an Anglican in South Wales, moved to Herstmonceux in the late 1970s and received the ministrations of the local church. Ill health and depression led to her becoming increasingly reclusive. She retained her faith, however, and kept a cross on the wall of her bedroom as a potent reminder. She had wanted her grave to be marked by a small wooden cross. The family thought that a Celtic cross would be more acceptable by way of aesthetic considerations as mentioned in the *Churchyard Regulations*, and would say something of her Welsh heritage.
8. In the light of Mr Fryzer's letter all the interested parties were contacted to see if they would be agreeable to the matter being determined on written representations, which they were. Those interested parties were therefore given time to make representations. Mr Stone responded on behalf of the PCC. He properly states (what Mr Fryzer equally properly conceded) that a parish has no discretion to permit a departure from the *Churchyard Regulations*. He emphasises that the headstone proposed is out of keeping with the more modern and uniform headstones present in this part of the churchyard and he illustrates this with a photograph as well as others on a CD. He points out that there is no cross-shaped headstone since the mid 1970s. His final point is one of precedent and the fear that were this Court to accede to this petition then the floodgates would open and the parish would be powerless to resist the surge.
9. Regrettably the papers then languished in the Registry for some months and it was only in late January that it became apparent that the petitioner had not been afforded the opportunity of responding to Mr Stone's representations. The delay, however, afforded the Court the opportunity of obtaining the view of the newly appointed priest-in-charge. He wrote on 20 February 2012 saying:

I do not know of any reason why the standard Diocesan requirements in size and shape for a memorial should not be adhered to in this situation.
10. The petitioner's response came by way of an email from Mr Fryzer dated 16 March 2012. I mean no discourtesy when I say that the substance of the email is largely a recapitulation of the points which were so well made in his earlier letter.
11. One matter here is very unfortunate, namely that the family of Mrs Preedy were not informed at the time of burial that regulations impose restrictions on the type of memorial which might be introduced into a burial place consecrated according to the rites of the Church of England. Such a significant oversight might amount to reason for the Court permitting an exhumation and burial elsewhere. In this instance, however, whilst I note that the proposed stone falls outside the *Regulations* it is not of a design, nor to be fabricated of a material which is wholly inappropriate, nor likely to cause offence. It is a Celtic cross which

speaks of Welsh lineage and of the Christian faith. It is well enough designed and it is to be installed by a reputable firm of monumental masons. Admittedly it will be a little different from other headstones in the vicinity but the purpose of the *Regulations* is not to promote uniformity and homogeneity. Whilst the *Regulations* limit the classes of headstone which the incumbent may permit, they do not affect the judicial discretion of this Court which is unlimited. In the circumstances, I am persuaded that a proper case has been made out for the introduction of the Celtic cross as sought in the petition.

12. I should say one final word about precedent. This judgment does not open the floodgates either in Herstmonceux or elsewhere in the Diocese. The faculty is personal to the petitioner. It does not expand the delegated authority given to the incumbent or priest-in-charge in the parish. Any similar applications in the future must be refused, and the would-be petitioner informed that if he or she is minded to select such a headstone a faculty must first be obtained and that a proper case will need to be made out. There will also be a cost involved. The effect of this judgment is to give a just determination to this particular petition on its own individual facts and not in any way to alter or dilute the strict terms of the *Churchyard Regulations*.
13. I therefore order that a faculty will pass the seal upon the petitioner discharging the costs of the petition, albeit that they will be of a lesser amount because it was disposed of by way of written representations.

The Worshipful Mark Hill QC
Chancellor of the Diocese of Chichester

23 April 2012