

In the matter of St Mark, Staplefield Common

Judgment

1. By a petition dated 23 August 2011, the petitioners (1) Wendy van der Merwe and (2) Carloyn Burns seek a faculty for the erection in the churchyard of St Mark, Staplefield Common of a headstone to mark the grave of the late Emily Rosalie Russell. The headstone proposed falls outside the categories for which the incumbent has delegated authority to permit introduction which is why a faculty is being sought.

**Background**

2. Emily Rosalie Russell died on 5 August 2010. The petitioners are her daughters. Mrs Russell's wish, I am told, was that her remains be laid to rest in Staplefield Churchyard where those of her parents, Mr and Mrs Ancell, and her sister, Mrs Clare Walker, are also interred. The petitioners apparently took advice from the Reverend Gary Simmons at Staplefield and from Pat Gallagher, a local undertaker.
3. The petitioners selected a small light grey heart shaped Star Galaxy Granite stone on a square base. The dimensions of the heart are 18" x 18" x 3" with the base measuring 3" x 22" x 14". The petitioners expressed surprise that their selected choice was not approved, but they must understand that this was not a value judgment on the part of the parish priest, who has no discretion to permit the introduction of any memorial which does not come within the scope of the *Churchyard Regulations* which comprise Appendix D to the *Chancellor's General Directions* (Issue 2, Easter 2007).
4. The proposed inscription reads:

Emily Russell

A devoted wife and loving mum, Mother-in-Law and Gran  
We hold you close within our hearts and there you shall remain  
To be with us through our lives until we meet again

xxxxxxxxxx

**Parochial Church Council**

5. The PCC considered the proposal at its meeting on 28 November 2011. The relevant minute of that meeting reads as follows:  
The PCC cannot support the proposed petition as it stands but would be in agreement with the suggestion of a rectangular slab, with an incised heart enclosing the proposed inscription, subject to the dimensions and materials conforming to current regulations.

### **Diocesan Advisory Committee**

6. The advice of the DAC was sought, as required under the Faculty Jurisdiction Rules. The DAC advised as follows in a letter dated 14 October 2011:

Members could not support the proposed shape and height of the stone as they felt it would be visually inappropriate amongst much taller headstones in that area of the churchyard. They suggested that a rectangular slab, with an incised heart enclosing the proposed inscription, would be preferable and more in keeping with existing headstones in the graveyard.

### **Evidence**

7. Various representations and observations have been made by the petitioners in the course of these proceedings; and the following correspondence from the petitioners has been considered in the course of determining this petition:
  - a. Letter dated 25 May 2011, not received in the Registry until 7 September 2011;
  - b. Letter dated 16 November 2011;
  - c. Letter dated 2 February 2012.
8. The petitioners state that there is nothing offensive in the proposed memorial and that other family members are buried in Staplefield churchyard with what they describe as 'ornate headstones and ledgers' larger in size than that which is proposed. They state that having studied the Church Regulations they feel the only area where their proposal may be in contravention is in terms of the chosen heart shape.
9. The petitioners have indicated a preparedness to adjust certain aspects of the proposal particularly in relation to the dimensions of the headstone but remain committed both to its material and its shape. They have emphasised the long and painful process in which they have been engaged in deciding on what they consider to be the right stone and the right wording. I accept that this has been emotional and distressing for them.
10. The petitioners indicate that there are various headstones in the churchyard which do not apparently comply with the regulations, some of which are illustrated in photographs which accompanied the most recent letter. They indicate that the heart shape is important for people of Mrs Russell's tradition, and point to a headstone for which a faculty was issued in the nearby Bolney churchyard. See the judgment of this Court in *Re St Mary Magdalene, Bolney*, 22 March 2011 (unreported) and its reference to the gypsy heritage of the deceased. The petitioners state:

We feel that an update in Regulations is needed to take into account traditions and heritages as well as keeping up with a changing social society. We challenge any views that what was deemed inappropriate or prohibited years ago is still inappropriate, and we appreciate encouragement by the Church to submit a petition to put forward our case. There seems to be a lot more choice in terms of graveyard stones on the market these days and we feel that this is a reflection of changing times and tastes.
11. The petitioners emphasise that the choice of headstone is neat, tasteful and completely inoffensive and that as regular visitors to the churchyard they will ensure that the grave and

its headstone will be maintained and kept clean, a practice which they have also sought to instil in their children.

#### **Assessment**

12. The purpose of the *Churchyard Regulations* is to promote consistency within 'God's acre' and whilst a faculty may be granted for particular headstones in special cases to take into account local circumstances, this jurisdiction will rarely be exercised in the absence of concurrence from the PCC nor will it generally favour utilitarian catalogue memorials as opposed to a bespoke headstone comprising, as the *Regulations* state, 'attractive, well conceived designs by skilled and imaginative craftsmen'.
13. There may be instances where headstones have been unlawfully introduced into this churchyard in the past, but the existence of non-compliant memorials is not a justification for sanctioning a proposal which falls outside a clear prohibition within the *Regulations* and which cannot be justified as exceptional.
14. Both the PCC and the DAC have intimated a degree of flexibility but have made clear that they can see no reason for a departure from the clear, unambiguous and commonplace prohibition on heart shape stones. Similarly I can see no reason for departing from such a practice, and whilst I do not doubt the sincerity of the petitioners, there is nothing in the evidence and representations which they have put before the court sufficient to sanction the grant of a faculty in this instance.
15. I would be willing to consider a variation to the current proposal along the lines suggested by the PCC and the DAC and I will permit the petitioners 21 days within which to amend their petition. Any proposed amendment would also need to address parts of the inscription which are unacceptable including the inconsistent terminology used of family members and the row of 'kisses' at the bottom. In the absence of an amended petition within the time allowed, the current one will stand dismissed. In any event, the costs of the petition are to be borne by the petitioners.