

In the matter of St Andrew, Fairlight

Judgment

1. This is a petition for the erection of a memorial in the churchyard of St Andrew, Fairlight. The petitioner is Mr Michael Drew and the memorial is intended to mark the grave of his late brother, Arthur Henry Drew. By an undated letter received at the Registry on 5 February 2014, the Petitioner has given his written consent for the matter to be determined on written representations.
2. The proposed memorial does not come within the categories specified in the Churchyard Regulations, which can be found at Appendix D of the Chancellor's General Directions for the Diocese. The General Directions were revised and reissued on 1 January 2014, but I shall treat this matter under the former regulations as these were current when the petition was lodged on 18 March 2013. I gather there have been certain dealings with the Archdeacon of Lewes and Hastings concerning this headstone, and the Archdeacon wrote to the court on 29 August 2013 setting out his perception of the issues to be addressed.
3. The evidence placed before me by the petitioner in support of his petition is somewhat sketchy. He maintains that his brother wished to have a memorial that resembled that of their mother, a photograph of which is contained with my papers. This is of the open book type which a parish priest does not have authority to allow under the Churchyard Regulations. The matter was raised at a PCC meeting on 7 March 2013, and the secretary of the PCC wrote on the following day to the solicitor retained by the petitioner informing her of the position, and indicating that a plain upright stone would be likely to be acceptable. The PCC acted entirely properly. They have no discretion in matters of this kind. If the proposal is not within the Churchyard Regulations it cannot be introduced without the authority of a faculty.
4. Following the PCC's letter, the petition was lodged. The diagram annexed to the petition showed an open book mounted left of centre on a large rectangular base with a socket for a vase to the right.
5. The matter was referred to the Diocesan Advisory Committee, whose views were expressed in a letter dated 15 April 2013. The DAC was divided as to whether an open book should be allowed, noting others of a similar type had been introduced. However, it was of the unanimous opinion that a flower container was inappropriate as part of the memorial. The DAC recommended the preparation of a scale drawing and the inclusion of the deceased's date of birth.

6. A letter dated 6 June 2013 from Messrs Fynmores, solicitors acting for the petitioner, contained a revised drawing, produced by Arthur C Towner Limited, monumental masons. This had a much-reduced base with no integral flower container. However, the solicitor's letter advanced a case at variance with this diagram. A subsequent letter from Messrs Fynmores dated 25 June 2013 enclosed a further copy of the revised drawing and made similar comments to the earlier letter. Also included was a handwritten letter from Miss Nicola Frith.
7. By letter dated 5 November 2013, Arthur C Towner Limited wrote to the court enclosing a revised drawing. This included a base on which the proposed open book was centrally mounted but protruding further to the front to incorporate a container for a flower vase. The covering letter states, 'The brother's dying request was that he be commemorated with a memorial as similar as possible to his mother's', and includes a photograph of the mother's memorial.
8. Independently of this, a letter was sent directly to me at my Chambers by the petitioner. It is dated 6 October 2013. His letter includes the following:

'My brother, Arthur, and I were close and in the week before his death he gave me detailed instructions about his funeral arrangements which included his wish to be interred in the Rose Garden (as the graveyard at St Andrew's is known) if possible near to our mother and with an open-book style headstone similar to that of our mother. He specifically said that he did not want his date of birth shown on the memorial. With hindsight I now realise that this was because he did not want his identity stolen, being well aware of how this was done as prior to his retirement he was employed in the Investigation Department of the DHSS. I gave my solemn promise to see that his wishes would be carried out and I cannot now break my word.'

His letter refers to correspondence from a local undertaker indicating that there are more than 100 book memorials in the vicinity of his late brother's grave, some very recent.

9. I should also mention that reference is made in the papers to the petitioner and his family being loyal supporters of the parish both in terms of regular worship and financial contributions. Whilst these are clearly deserving of praise, they do not give rise to a presumption of special treatment.
10. My approach to this matter must be guided by the Churchyard Regulations which prescribe how 'God's acre' is to be preserved and managed. Open book memorials have long been prohibited. The unlawful introduction of such memorials in the past – even in relatively large numbers – cannot legitimate this application.
11. One theme consistently runs through all the comments and representations, namely to have a memorial which resembles as closely as possible that of the deceased's mother. I can see why a son may have wished this, and why a brother may have made a promise to achieve it. The photograph of the mother's grave, submitted in evidence, reveals no base at all and no

flower container cut into the base. There is thus a significant and unexplained contradiction in the petitioner's case.

12. On the evidence before me, I can see no justification for departing from the prohibition on open book memorials. However, having regard to the exceptional pastoral case made by the petitioner for having a memorial resembling that of the deceased's mother, I would be prepared to authorise one in this instance as an exception to the general rule on the basis that it did genuinely resemble that of the deceased's mother. It is to be mounted directly into the ground with no base and therefore no socket for a flower vase. I would also exceptionally permit the omission of the year of birth, despite the prevailing custom for its inclusion.
13. I will allow the petitioner 28 days within which to submit a revised drawing. If none is received the petition will stand dismissed.
14. No memorial is to be introduced until a revised drawing has been approved by the court and the court fees paid in full.

The Worshipful Mark Hill QC
Chancellor of the Diocese of Chichester

24 February 2014