

Neutral Citation Number : [2022] ECC Lee 4

28th September 2022

**In the Consistory Court of the Diocese of Leeds**

**In the matter of the Churchyard at St John the Evangelist, Staincross**

**Re: Cameron Antonio Iardino (deceased)**

**Between:**

**Deborah Walker**

**Petitioner**

**and**

**The Parochial Church Council of St John the Evangelist, Staincross**

**Party Opponent**

**and**

**A & M Hadfield (Funeral Directors) Limited**

**Additional Party**

**Private Petition for permission to erect a**

**Non-conforming memorial**

**21-146C**

---

**JUDGMENT**

---

1. By a petition dated 17<sup>th</sup> November 2021 Deborah Walker makes application for the installation of a memorial upon the grave of Cameron Antonio Iardino, who sadly died in the year 2000, aged only six years. The incumbent cannot grant permission for the introduction of the proposed memorial because it falls

outside the delegated authority given to parochial clergy under the current diocesan Churchyard regulations. The memorial sought falls outside the Churchyard regulations principally because it includes a request for kerbstones with a stone slab and stone chippings within the kerbs. The chosen stone is dark grey granite, honed not polished. The Petitioner provided photographic evidence of other dark granite headstones and of graves with kerbstones within the churchyard.

2. The Parochial Church Council oppose the grant of a faculty for the reasons briefly summarised in a letter of Mr R C Hawes dated 20 December 2021, chief among which is the inclusion of kerbs (and chippings) which make churchyard maintenance difficult. It is asserted that the Incumbent and Churchwardens have striven to apply the churchyard regulations, which becomes increasingly more difficult when non-conforming memorials are permitted. The answer to that is, of course, that every application for a non-conforming memorial will be considered with care and decided upon the merits, with the grant of a faculty for installation if appropriate or refusal when it is considered the proposal is inappropriate. The issue therefore rests with the Chancellor or his Deputy and not with the Incumbent or Churchwardens.
3. It was conceded that there are other black granite or marble headstones in the churchyard (the nearest being two rows from this grave) and there are at least ten graves with kerbstones, each permitted by faculty. Other memorials that

had kerbstones installed without permission were altered many years ago, it seems, by the kerbstones being buried beneath the surface of the grave.

4. Mr Hawes raised another matter, namely that it was feared by the Parochial Church Council that this particular grave – which, unusually for the churchyard, was machine dug – is not in the precise location authorised and therefore could be encroaching onto a reserved plot, thereby prejudicing a future burial. The particular issue arose because the family had insisted upon the use of a metal American casket, which is larger than a usual coffin. The matter of encroachment was investigated with the assistance of the Archdeacon of Pontefract, the Venerable Peter Townley, and at a meeting involving Mrs Walker, the funeral directors and representatives of the Parish, it was found that fortunately those fears were ill-founded. The Archdeacon concedes that at the meeting he did not make any comment about the appropriateness of the proposal, but in a document sent to and signed by everyone who attended the meeting he opined “given that the grave is in the far north east corner of the churchyard and the particulars of this case, it would make good pastoral common sense to allow by faculty the headstone and kerbstone but not a slab or chippings’.
5. The Chancellor has issued several sets of directions in this matter. He has required a security for costs from the Petitioner, which has been paid. In the most recent directions the Chancellor indicated the following:

*“I understand that a conversation took place between the parties. It emerged that the petitioner might amend her petition to seek a memorial with kerb stones, but without chippings or any form of slab.*

*In the particular circumstances of this case, the Court would be willing in principle to authorise such a course, subject to a detailed proposal being submitted and approved.*

*The petitioner is invited to provide the Court with such a proposal.”*

The Petitioner has now provided a detailed proposal. The petition has indeed been amended to remove any request for a slab or chippings within the kerbstone. It has been asserted that the inscription is to be decided at a later date.

6. Both the Archdeacon and the Chancellor have indicated that, in the particular circumstances of this matter, it could well be appropriate to permit a memorial to young Cameron Antonio Iardino to include kerbstones (but no stone slab and no chippings). It is also conceded that the grave is in the far corner of the churchyard, so any difference in memorial from other surrounding memorials would only be seen by those visiting that section of the churchyard.
  
7. I have considered the detailed proposal with care. The proposed memorial would have a footprint of 86” x 36” and the headstone would rise 40” above the kerbs, which would be 6” in height. The headstone would have a central panel for the inscription with a shaped panel to each side much like the pages

of book. There would be two flower holders at the foot, incorporated into the kerbs. The memorial is not noticeably different to the other graves with kerbstones in the churchyard.

In those circumstances I am persuaded that it is appropriate for the requested memorial to be permitted. A faculty can be granted, with conditions:

- (1) The wording of the inscription must be agreed with the incumbent of the Parish (or, in the event of there being no incumbent, with the area dean) before being added to the memorial. In the event of dispute as to the appropriateness of the inscription the matter shall be returned to the Court for further directions;
- (2) The Petitioner shall ensure that a copy of the final approved plan is submitted to the Churchwarden(s) of the parish for inclusion in the parish records;
- (3) The petitioner shall ensure that the churchwarden(s) of the parish are notified when the memorial has been installed so that within one month of installation full details can be entered in the church log book;
- (4) The amount already submitted as security for costs shall stand as the court costs in this matter. I certify that preparation of this judgment took one and a half hours.

8. As regards costs I should add that the most recent directions from the Chancellor indicated that some costs might be ordered against the funeral directors for failing to respond to earlier directions. I mention that because it now transpires that the funeral directors did respond in time but the Royal Mail

did not deliver the letter and returned it to them. In those circumstances it should be mentioned that no proportion of the costs will stand payable by A & M Hadfield (Funeral Directors) Limited.

Glyn Ross Samuel  
Deputy Chancellor  
29<sup>th</sup> September 2022.