

IN THE CONSISTORY COURT OF THE DIOCESE OF LICHFIELD

ST JAMES THE LESS: FRADSWELL

ON THE PETITION OF JACQUELINE INGRAM

RE: A MEMORIAL TO MARK INGRAM

JUDGMENT

- 1) Mark Ingram died aged 72 in October 2016. Mr. Ingram was buried in the churchyard of St James the Less, Fradswell and his widow, Jacqueline Ingram, petitions seeking a faculty for a memorial on the site of his grave.
- 2) The wording of the inscription proposed for the memorial is wholly unexceptionable. Under the heading "Precious Memories" there are references to Mr. Ingram's qualities as a husband, father, and grandfather; his date of death and age at that time; and a reference to the fact that he is now "Safe in the arms of Jesus". At the foot of the memorial Psalm 73 v 26 is quoted.
- 3) There are a number of respects in which the memorial goes beyond the limits placed on those which can be authorised by incumbents under the Churchyard Regulations and it is for that reason that a faculty has been sought. The memorial is to be of polished black granite with gold lettering. It is to take the form of a rectangular upright stone bearing the inscription set out above. However, alongside and connected to that stone there is to be an upright column extending a little higher than the stone and bearing for almost its full height the image of a cross with a rose entwined around it. Mrs. Ingram explains that she and Mr. Ingram were celebrating their Fiftieth Wedding Anniversary in the year of his death and that she wishes to have gold lettering as a marker of that fact. In addition Mrs. Ingram says that the image of the rose is proposed because of Mr. Ingram's love of gardening.
- 4) Revd Michael Cadwallader is the incumbent of the Mid-Trent benefice which includes St. James the Less. He and the Parochial Church Council of Fradswell have explained that they are supportive of the approach set out in the Churchyard Regulations but that they do not object to this petition. There are two

reasons for this. The first is the presence of other memorials in the churchyard falling outside those permissible without faculty under the Churchyard Regulations. The second is the views of Mr. Cadwallader and the Church Council as to the pastoral needs of Mrs. Ingram and her family.

- 5) I have been provided with a number of photographs of the churchyard. These show that the churchyard already contains a number of memorials made of polished black granite and bearing gold lettering and images of varying kinds. Although these are by no means the only memorials in the churchyard there are clearly a number of such memorials. The photographs indicate that there are a dozen or more such memorials in the vicinity of Mr. Ingram's grave. Although the photographs show memorials of black granite with gold lettering they do not show any other memorials with the block and column formation that is proposed for Mr. Ingram's grave albeit there are a number with curved tops of various kinds.
- 6) The Diocesan Advisory Committee has advised that it does not recommend approval of this petition. The combination of the irregular shape of the proposed memorial together with the use of polished black granite and gold lettering caused the Committee to conclude that notwithstanding the presence of other memorials falling outside the scope of those permissible without faculty what was proposed here fell too far outside the scope of the Churchyard Regulations for approval to be recommended. It is apparent that the Committee was influenced by the fact that the other memorials made of polished black granite were substantially regular in shape.

The Approach to be taken.

- 7) I previously set out the approach to be taken when considering the relevance of the presence of a number of memorials outside the scope of the Regulations in my judgment in *St James, Newchapel* (Lichfield 2012). I there made reference to the judgment of Mynors Ch in *Re St Mary: Kingswinford* [2001] 1 WLR 927. More recently I set out my understanding of the applicable principles at rather greater length in *St Leonard: Birdingbury* [2018] Ecc Cov 1. I explained that there normally needs to be a good reason before a memorial falling outside the scope of those permitted under the Regulations will be authorised. Where there are already a number of memorials outside the scope of the Regulations the question

of whether there is a good reason for the proposed further such memorial is to answered in the light of the approach set out in *St James, Newchapel* at [26]:

“Particular issues arise in cases where there are already a number of non-conforming memorials in a churchyard. The mere fact that non-conforming memorials have been allowed in the past or have been erected without faculty is clearly not of itself a justification for a further inappropriate memorial. However, there will be occasions when the extent of previous non-compliance with the Regulations will be relevant. In the passage quoted above Ch. Mynors referred to situations where the number of non-conforming memorials is such that it would be “*unconscionable*” to refuse permission for one more. In my judgment the proper approach is to take account of the number, type, and appearance of non-conforming memorials in relation to the size and appearance of the churchyard taken as a whole. There will be cases where the non-conforming memorials are so numerous or so dominant that it is simply unrealistic to believe that the objective of preserving the desired appearance of the churchyard can be achieved. That desired appearance being one that is harmonious in appearance and forming a worthy setting for the church. In such circumstances the balance of unfairness changes. It can then become unfair to the Petitioner to refuse a petition for a memorial of a kind akin to those already present in and dominating the churchyard. There is then a risk that the Petitioner’s wishes and preferences are being thwarted in pursuit of an unrealistic objective. Moreover, in such cases the risk of unfairness to those erecting conforming memorials contrary to their own preferences is likely to be diminished.”

The Application of that Approach to this Case.

- 8) The photographs provided to me show a very significant number of memorials outside the scope of the Churchyard Regulations in this churchyard. There are a large number of memorials of polished black stone bearing gold lettering and images of various kinds. In my judgment the proposed memorial is not materially different from those. The proposal for a column alongside the memorial stone is unusual and does differ from the other memorials in the churchyard. There are, however, a number of memorials which have curved tops of various kinds. The addition of the column is not, in my judgement, likely to attract excessive attention to this memorial nor is it likely to cause it to appear jarringly different from the memorials around it.

9) I am satisfied that this is a case where there are such a number of memorials falling outside the scope of the Churchyard Regulations that it is unrealistic to believe that the churchyard can be restored to a harmonious appearance. Certainly to require the Petitioner to erect a memorial within the scope of those Regulations would not make a material difference to the appearance of the relevant part of the churchyard. The appearance would remain that of a churchyard where there are memorials of varying kinds including a considerable number in polished black stone bearing gold lettering and images. Mrs. Ingram has explained why she wishes to have the particular image and why she wishes for the inscription to be in gold lettering. Her desire to commemorate her husband's interest in gardening and to mark their fifty years of marriage is entirely understandable. In those circumstances I have concluded that it would be unfair to the Petitioner to refuse to allow a memorial of the kind proposed. That unfairness is a good reason for granting the faculty sought and accordingly a faculty will issue authorising the proposed memorial.

STEPHEN EYRE
HIS HONOUR JUDGE EYRE QC
CHANCELLOR
7th May 2018