

Between:

The Reverend Debbie Horsfall

Applicant

and

Dan Betteridge
Trading as 'Memories in Stone'

Respondent

Judgment

1. This is an application for a restoration order made pursuant to r 16.2 of the Faculty Jurisdiction Rules 2015 for the "removal of an illegal monument from the churchyard". There are various irregularities in the Form 16 and the form of the witness evidence filed in support, all of which I am prepared to waive as I am satisfied on the papers before me that the respondent malefactor admits the illegality and consents to a restoration order being made.
2. In short, the applicant received a written application for the introduction of a memorial into the churchyard which she was not in a position to permit as it the proposal did not come within the categories for which parochial clergy in the Diocese of Leeds have delegated authority to permit pursuant to the Churchyard Regulations (Issue 1, January 2016).
3. Entirely properly, she contacted the local funeral director who had submitted the form in order to advise them on the revisions necessary to render the proposal acceptable. The funeral director informed the applicant that the headstone had already been installed. The funeral director had queried the quick installation with the monumental who informed her that the applicant had given permission verbally orally over the phone. The applicant refutes this in her statement. She never gave permission otherwise than in writing. This is entirely proper and no less than I would expect from clergy of the Diocese.
4. The respondent then set about trying to establish what had occurred, triangulating between the funeral director, the monumental mason (subsequently identified as the respondent) and the Registry. Even now the applicant is far from satisfied that she has established the true facts.
5. A fresh application has been made by the family concerned for entirely new headstone which falls within the terms of the Churchyard Regulations and which the applicant

has the delegated authority to authorise. It would appear that the family have not paid for the unlawful headstone which remains the property of the respondent. The applicant seeks a restoration order for the removal of the headstone.

6. The respondent's evidence is in the form of a short email dated 9 November 2017 and addressed to the applicant.

I believe we have placed a memorial within the churchyard without the relevant permission. First and foremost I apologise profusely.

We subcontract to the co-op [*sic*] and fix the majority of their memorials within the Yorkshire region, the memorial in question was fixed by mistake by us and we are to be held responsible. I have spoken to our fixer about the matter and he has explained to me that he had numerous other memorials to fit on the same day, he received a telephone call authorising hen to erect what he thought was the memorial, so as a result of the call he went back and fixed the memorial, as it transpires, the call was authorising him to fix a different memorial with a similar name.

This was a mistake on our part and I must apologise for any confusion and upset caused by this. I would ask that you are able to forgive our mistake and allow us to make things right.

7. Like the applicant, I am not convinced that the whole truth has yet emerged. However the acceptance of responsibility by the respondent and his apology to the applicant is such that I do not consider it productive to investigate further. I trust a similar apology, in a medium more appropriate than an email, has been sent to the family concerned.
8. Memorial masons need to appreciate the enormous distress that their mistakes can cause: see, in the context of local authority cemeteries, *Re Welton Road Cemetery, Daventry* [2017] ECC Pet 2. It is foolhardy and reprehensible to proceed solely on the basis of instructions spoken over the telephone. It is a recipe for confusion, error and serious pastoral harm, as has occurred here. The applicant's conduct in this matter has been the exemplar of best clerical practice. That of the respondent shows a distinct lack of care and I trust the respondent's processes and staff training will be reviewed and improved as a matter of urgency.
9. I am agreeable to the making of a restoration order, which will be in Form 18 as prescribed in r 16.5(3). It will be on condition that the costs of these proceedings, to include the issue fee and a correspondence fee for the registrar are paid by the respondent within 14 days to be assessed by the Registrar. The order for costs is to be discharged in full prior to the removal of the headstone.