

In the matter of St Chad, Far Headingley

Judgment

1. By a petition dated 25 January 2021, the petitioner, Lynsey Dent seeks a faculty for the introduction of a memorial into the churchyard of St Chad, Far Headingley on the grave of her two children. Tragically, both children died from complications arising from Batten disease: Ellie Mae in 2015, aged 6 and Caleb in 2019, aged 9.

The original memorial

2. The original memorial, for Ellie Mae, was placed in the churchyard without permission being obtained from the incumbent. Its polished gloss surface is such that the incumbent would not have had delegated authority to allow it. There has been a delay in preparing this judgment while the facts were investigated. Mr David Calder, of G H Dovener & Sons, Funeral Directors, ignored both the Court's order requesting information, and several reminders. He only replied when an "unless order" threatened him with costs and other consequences.
3. It would appear from the information Mr Calder has now disclosed that the original memorial was erected by a firm of stonemasons, Mark Clarke and Son, acting under the direction of an employee of Mr Calder's firm, who has since left his employment. There is no explanation as to why Mr Calder's firm instructed the work to proceed without permission, nor why the stonemasons failed to ensure that written authority was in place. Due to the delay the Court has not made independent enquiries of Mark Clarke & Son.
4. Mr Calder has offered the Court assurances that there will be no repetition and says he has issued reminders to his staff regarding the contents of the *Churchyard Regulations*, their importance, and the serious consequences that can result if memorials are introduced into churchyards without permission. I hope a line can now be drawn under the matter.

The current petition



5. The current petition, as I understand it, sought to re-introduce the original memorial but with an additional inscription added in respect of Caleb.
6. Events have moved on since the petition was lodged. The Court issued directions on 1 February 2021, mindful that Mrs Dent had been distressed to receive a letter from the incumbent emphasising the need to comply with the *Churchyard Regulations* in so far as they related to mementoes placed on graves. At paragraph 11, they state: "For the avoidance of doubt, the following are not permitted ... mementoes, windmills, toys or little animals, solar lamps or similar". Although Mrs Dent accepts that she was made aware of the regulations at the time of Ellie Mae's burial, she did not take in their content due her grief, and noted that they did not appear to be routinely enforced.
7. In the Directions, I raised whether Mrs Dent might wish to consider (i) requesting a memorial with a design and inscription more in tune with what she may have wanted originally; and (ii) adding to the petition a request to place a limited number of mementoes at the grave for a certain period. A senior cleric in the diocese, Canon Sam Corley, offered to meet Mrs Dent and

her husband to talk through the issues involved. I wish to record my gratitude to Canon Corley for his thoughtful intervention.

8. Mrs Dent's response was to accept my invitation to amend the petition and seek permission for a more expansive and expressive memorial, which I address below. She elected not to seek additional permission for mementoes on the grave as she does not want special treatment and is sensitive to the feelings of others whose loved ones are buried in the churchyard. I entirely respect her principled response.
9. Mrs Dent understands that my judicial function prevents me entering into private communications with her while proceedings are pending before the court. She has asked, however, for the opportunity to speak to me once her petition has been determined, to explore how the *Churchyard Regulations* might be revised and ameliorated in respect of child graves. Mrs Dent has made representations to similar effect to the church authorities and the media, mindful that the restrictions in the Diocese of Leeds are broadly replicated in most other dioceses of the Church of England. I am pleased to confirm my willingness to engage with Mrs Dent following determination of this petition. The *Churchyard Regulations* are subject to periodic review, and I welcome comments on their operation.

New memorial

10. That then leaves the question of the memorial now proposed by Mrs Dent. With my encouragement, the following design has been submitted for consideration:

 Funeral Partners	<p>The illustration below is a guide to your memorial. We request that you sign and return this document to us. We will not start the lettering process until we have received a signed copy of this paperwork from you as confirmation.</p>
<p>267-73 Print-out dated 22. 2. 2021</p>  <p><i>In Loving Memory of</i> ELLIE MAE ROSE BROWNNUTT OUR LOVING JOYFUL GIRL WE LOVE YOU TO THE MOON AND BACK 12.12.2008 - 07.05.2015 AND CALEB WILLIAM BROWNNUTT OUR COURAGEOUS, MUCH LOVED BOY TO INFINITY AND BEYOND 16.05.2010 - 15.11.2019</p>	
Signature	Date

11. The image of Winnie-the-Pooh has particular resonance for Mrs Dent and her children, and the references to Buzz Lightyear and to a well-known phrase from children's literature are entirely understandable. Whilst "to infinity and beyond" and "We love you to the moon and back" are not biblical texts, they are not offensive to Christian doctrine and speak of how children seek to navigate the adult world around them: courageous ambition and limitless affection, respectively.

12. I am put in mind of a saying of Jesus, recorded in the Gospel of St Matthew, ch 18 v 3:

And he said: "Truly I tell you, unless you change and become like little children, you will never enter the kingdom of heaven."

13. The design and inscription do not come within the *Churchyard Regulations* so the memorial cannot be authorised by the incumbent under her delegated authority. But it is open to me as Chancellor to grant a faculty to allow it. I consider that Mrs Dent has made out a compelling case for it. There are exceptional pastoral reasons why this design of headstone should be allowed and I hope it will give comfort and solace to Mrs Dent and other family members.

14. I solicited the view of the incumbent, the Reverend Hannah Lievesley. She does not object, although there may be some repercussions and sensitivities with other families. It does not set a precedent nor does it increase her delegated authority to permit similar headstones in the future, because a faculty would still be necessary which only the chancellor can grant. Ms Lievesley is in a difficult pastoral situation, largely as a result of the neglect by her predecessors in enforcing the *Churchyard Regulations*. I wish to commend her for the dignity and concern that she has exhibited in this matter. I would willingly involve her in any future review of the diocesan *Churchyard Regulations*, or in the consideration of bespoke regulations specifically for the churchyard of St Chad's, Far Headingley should that commend itself to the PCC.

Outcome

15. For the reasons set out above, I direct that a faculty may issue. If a new memorial is to be fabricated (rather than an image and further inscription added to the original one) then its dimensions should accord with those stated in the *Churchyard Regulations* and it should be non-polished (matt) in appearance. The image of Winnie-the-Pooh is to be cut into the stone and not coloured.

Costs

16. I propose to waive all court fees relating to this petition other than the issue fee which has already been paid. If Mrs Dent wishes to pursue any claim against Mr Calder (who has been joined as an Additional Party to these proceedings), she should write to the Registry within 14 days stating her reasons.