

Neutral Citation: [2023] EC Sodor 1

IN THE CONSISTORY COURT OF THE DIOCESE OF SODOR AND MAN

IN THE MATTER OF ST PAUL’S FOXDALE

JUDGMENT

Introduction

1. This case concerns a petition to authorise the introduction into the graveyard at St Paul’s Foxdale of a memorial to a child, to whom I shall refer as J, which does not conform to the delegated authority for churchyards (more commonly known as “the Graveyard Regulations”) made by my predecessor, Faulds, VG, in two respects. First, the petition seeks authority to install kerbs around the grave, and second, the proposed stone includes a colour which is not normally permitted under those Regulations.
2. As will become apparent from the commentary below on the background to this case it is tragic.

Background

3. In order to explain some of the background to this case, I quote a substantial part of the letter submitted with the application for advice to the Diocesan Advisory Committee in August 2021:—

“In February 2018 J died at his home. J had autism and needed constant care. His dad [“D”] was looking after him when he died. The whole family were traumatised as a result of J’s death, especially D, who was unable to save his son who drowned in a therapeutic hot tub – J loved the water.

During the pandemic lockdown, D, who suffers from Parkinson’s Disease, found comfort in tending his son’s grave to which he refers as “J’s garden”. He realises that he has added a number of items which would not be permitted under [the Regulations], but the approval of the present application would enable him to be at ease with the plot. He has agreed not to make further additions to the grave that would not conform to the Delegated Authority.

The PCC support an application for a memorial headstone and kerbstones as per the accompanying ... design, including the additional colours which are associated with the Autism Society.”.

The petition

4. For pastoral reasons the petition is brought, not as might be expected, by the parents of J, but by the Vicar and Wardens of the parish, who are anxious to bring matters to a satisfactory and seemly conclusion. This course of action is supported unanimously by the PCC. The proposal is that the tombstone should bear the inscription, after the identifying details of J's name and dates of birth and death "Ride your white horses, sweet boy, on Fenella's¹ golden sands to the stars in the sky".

The Diocesan Advisory Committee

5. Despite the departure from the Graveyard Regulations, the Diocesan Advisory Committee recommended the petition to the Court.

Discussion

6. On the question of the kerbs, I have absolutely no difficulty in agreeing to them. The grave is surrounded by a number of others in a distinct section of the graveyard at St Paul's Foxdale, many of which already have kerbs.
7. Given that the purpose of a memorial is to commemorate the departed and inform the living, and the tragic circumstances of J's death, I accept that there is a compelling reason for authorising the inclusion of colours referring to the Autism Society.
8. Before leaving this part of the judgment I need to say something about the leaving of items on or near a grave as a way of marking particular personal connections between the deceased and the person leaving the items. I cannot better express the difficulties which arise in these circumstances than by quoting from the judgment of Holden Ch in *Re Christ Church Harwood* [2002] 1 WLR 2055 at 2056:

"The overall beauty and tranquillity of a churchyard is only as good as its constituent parts allow it to be. The rights and interests of private individuals, of the worshipping congregation, of all parishioners, of the local community, and of the Church and society at large all have to be considered in permitting a memorial, which is likely to last for ever, to be placed in a churchyard. There cannot be a *carte blanche* situation where a family of the deceased has the sole right to decide what is, and what is not, appropriate by way of memorial, not least because...the family do not own the land in which the remains are placed, or on which the memorial is meant to be placed."

I have seen the grave where J is buried in connection with another application in relation to a grave in the same area of the churchyard, and I am concerned that the tranquility of the location should not be disturbed by the introduction of any further unauthorised

¹ Fenella Beach in Peel is one of the Island's beauty-spots.

items, so I am grateful for the indication set out in Canon Ward's letter. I trust the family will understand the need to maintain the dignity and tranquility of the graveyard, and the need to balance their interests against those of other users.

9. A faculty will issue to authorise the erection of the tombstone in the form recommended by the Diocesan Advisory Committee and for the placing of kerbs around the grave. I would hope that this will afford the family some relief in their tragic loss.

W. Howard Connell

Vicar General and Chancellor, Diocese of Sodor and Man

25 January 2023

(Conversion of St Paul)