

In the matter of St Giles, Graffham

Judgment

1. This is the petition of Paul and Gina Tupper which seeks a confirmatory faculty to permit the retention of a memorial (in the form of a circular tablet) that was introduced into the churchyard without permission at the resting place of their parents, Ray and Mary Tupper. The precise date of its introduction is disputed, but for the purposes of this determination I proceed on the basis that it was in February or March of 2024.
2. In response to sustained requests from the Court, the petitioners disclosed that the circular tablet was fabricated by Mr Anton Matthews, a stonemason. It was apparently installed by the petitioners themselves. Mr Matthews states, and the Court accepts, that he was unaware that the tablet was to be installed in a churchyard in the diocese, and finds himself somewhat embarrassed that his handiwork has become the subject of the current petition.
3. Mr Matthews wrote to the Court in the following terms:

In order to resolve the situation, the tablet could be refaced to a Matt finish and a colour change [for the lettering] from silver to off-white. This would be more in keeping with the Chancellor of the Diocese of Chichester's Directions. Because of this unfortunate situation I am prepared to carry out the work at no cost to the Tupper family.
4. I invited the petitioners and the parish to respond to this compromise proposal. By letter dated 14 August 2025, the petitioners indicated their preference would be for the retention of the tablet in its original form, but 'if push came to shove' they would accept the refacing. Mindful that Mr Matthews was blameless, the petitioners offered to make a donation, equivalent to the cost of his labour, to a charity of his choosing. The priest-in-charge, the Revd Vivien Turner, has drawn the Court's attention to a number of ways in which the tablet fails to comply with the current Churchyard Regulations. Beyond that, she is content to abide by the direction of the Court.
5. I regret it has taken a little longer than usual to make this determination. I am conscious of the need for closure and the stress that arises from prolonged uncertainty.
6. It is worth re-iterating that no memorial may be introduced into a churchyard without lawful authority. Traditionally that has been in the form of a faculty or (more commonly) the permission of parochial clergy using the legal fiction of the delegated authority of the chancellor. The national church is in the process of migrating to a more robust basis for the authorisation of churchyard memorials in the form of Additional Matters Orders (AMOs) made pursuant to section 77(1) of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018, whereby specified types of memorial will be added to the list of works which may be undertaken without a faculty. Although each diocese will have its own AMO, it is expected that the basic types of approved or standard memorials will be broadly the same thus fostering greater uniformity across the Church of England as a whole. It will still be open to individuals to seek a faculty for a memorial not included in an AMO. Such applications will be determined on their individual merits, not by invoking a presumption against a memorial outside the parameters of the AMO (or the Regulations previously in force). See the decision of the Court of Arches in *Re St Giles, Exhall* [2021] EACC 1 at paragraph 11.8.

7. In this diocese, the proposed AMO remains at the consultation stage, and thus this matter falls to be considered under the current Churchyard Regulations. As the Revd Vivien Turner rightly indicates, she could never have approved this tablet because it did not come within the categories for which the parochial clergy have delegated authority. It would have required a faculty.
8. The petitioners have now applied for a confirmatory faculty seeking, in their words, retrospective permission. The issue for the Court when considering such petitions is whether a faculty would have been granted prospectively had a proper application been made in time. That decision is merits-based. It is not dependent on compliance – or near compliance – with the Churchyard Regulations.
9. In this case, I am reluctantly persuaded that a faculty would have issued for a proposal based upon the ameliorated compromise advanced by Mr Matthews. Weight would have been given to the existence of a similar tablet for another family member in relation to which no enforcement action had been taken.
10. I should emphasise that this is an exceptional decision taken in the unique facts of this case. It sets no precedent for the future, nor does it enlarge the delegated authority of the priest-in-charge, who would still have to refuse a like application in the future. It does not create any expectation that there is now a free-for-all in respect of tablets of this type.
11. I will therefore direct that a confirmatory faculty pass the seal on condition that the works of amelioration outlined by Mr Matthews are completed within 28 days. If the works are not completed by that date, the churchwardens are authorised to remove the tablet.
12. The re-worked tablet is not to be introduced into the churchyard until the petitioners have settled in full the court costs of and occasioned by this petition, to be assessed by the registrar.
13. Whilst the Court has no jurisdiction to direct the charitable donation offered by the petitioners, it is hoped that it will be implemented as a gracious gesture to mark the resolution of this regrettable saga.

The Worshipful Mark Hill KC
Chancellor of the Diocese of Chichester

24 September 2025