



*Faculty application — Churchyard memorial — Applicant seeking a faculty for an upright memorial on a cremated remains plot to commemorate the deceased's late wife — Memorial also falling outside the Churchyard Regulations in respect of lettering, colour and finish — DAC not recommending memorial for approval by reason of its design and appearance — DAC also concerned that the language of the proposed inscription would be overly informal in style and not consistent with the character of the churchyard — Objection received from the Parochial Church Council — PCC not electing to become a party opponent — Whether faculty to be granted*

**Petition No: 11126**

**IN THE CONSISTORY COURT**  
**OF THE DIOCESE OF OXFORD**

Date: Saturday, 2 May 2026

**Before:**

**THE WORSHIPFUL DAVID HODGE KC,**  
**CHANCELLOR**

**In the matter of:**  
**St Peter, Woolhampton**

**THE APPLICATION OF ALBERT MARK BRAZIL**

Formally unopposed application determined on the papers and without a hearing.

An objection was received from the Parochial Church Council but it did not elect to become a party opponent.

The Diocesan Advisory Committee did not recommend the proposal for approval by the court.

The following cases are referred to in the judgment:

*Re Christ Church, Harwood* [2002] 1 WLR 2055

*Re St Giles, Exhall* [2021] EACC 1, [2021] PTSR 1622

*Re St Mary, Great Chart* [2022] ECC Can 2

## JUDGMENT

### Introduction and background

1. By an application, dated 25 July 2025, Mr Albert Mark Brazil applies for a faculty authorising the introduction of an upright memorial into the churchyard of St Peter, Woolhampton notwithstanding that it falls outside the current churchyard regulations. The church is Grade II listed, and was built between 1857 and 61 by John Johnson in a Neo-Gothic style. It lies to the south-west of Reading, in the Archdeaconry of Berkshire. The memorial is intended to commemorate the applicant's late wife, Mrs Deborah June Brazil, who sadly passed away, at the early age of 57 years, on 9 May 2025. Her body was cremated on 5 June 2025. The proposal is to lay Mrs Brazil's ashes to rest, and to install the headstone, under the expansive canopy of a yew tree, near to the north-western boundary of the churchyard. The headstone will contain the image of an open book, with a rose design running across the top. According to the petition, the memorial will be made of standard dark grey/charcoal granite, with a polished front and fascia (although the applicant would have preferred the headstone to be black in colour). Its dimensions will be 30 by 12 by 3 inches. The lettering for the inscription will be in a gold fill colour. Spanning both pages of the open book, the inscription will read (with line breaks indicated by the symbol / and the page division by the symbol //):

*In Loving Memory of /DEBORAH /JUNE /BRAZIL /08.01.1968 /09.05.2025 /The Most /Kind Hearted /Loving Wife, /Mum, Nana, /Daughter & Sister /in the World. // We Love you /& Miss You /so Much. /Husband Albert /& Sons /Casey, Sonny /& Grandchildren /Who love you to the /Moon and Back. /God Bless, /See you later /Until we Meet Again /XXXXXXX*

2. The applicant has attached to his application a statement which sets out his special reasons for choosing this particular memorial, and his proposed inscription. This reads as follows:

*I, Mr Albert Mark Brazil, am hereby asking, in the name of my late wife Deborah June Brazil, who passed away on 9 May this year at the age of 57 years old. I am hoping you will consider my application favourably. My late wife and I have lived near St Peter's Church for the last 35 years with both of our sons attending the primary school which resides next door to the church. Our grandchildren also now attend the same primary school. Just to verify our reasons for this design of memorial, unfortunately approximately two years before my wife Deborah died, her mother passed away. My wife and I had to pick and design a headstone for her mum. The only headstone design that Deborah liked/considered is the same design I am trying to arrange for Deborah as this was her wish and is indeed the last thing myself and our sons and grandchildren can do for her. (Please find an image of Deborah's mother's headstone enclosed for your viewing.) At which point I was told I could not have a black headstone. So I/we went with standard dark grey polished charcoal with standard gold writing. Please note, I have found other headstones within the churchyard with black polish and gold lettering facias. (Please see photograph of this enclosed.) If black*

*is not possible, I am happy to go with as previously mentioned, i.e. standard dark grey charcoal polish facia with standard gold lettering and matt finish to rear of headstone if preferred.*

*Please note, all sizes and specifications do indeed work with churchyard regulations and materials and erection details. I would very much like our wording to remain the same as laid out in attached documents, i.e. reference section 11. This wording means so much to myself, my children and grandchildren as we all sat together one Sunday evening and spent so much time putting this together from our hearts. The plot that has been agreed for the headstone is kind of on the boundary of the church grounds, out the way, under a tree, i.e. not too prominent. This is somewhere that Deborah's ashes can be laid, in front of the stone as arranged. This would allow myself, my sons and grandchildren somewhere to go, to be close to Deborah.*

*I miss her so much as we have been together since she was 15 years old. I am writing this with a broken heart and finding it hard to carry on without my Deborah in my life. I do believe we will meet again, one day and that belief, and my children, is all that is keeping me here at the moment. I ask you to please consider my application with an open heart and understanding as I really feel this headstone and layout is kind of standard in general and as mentioned, Deborah's wishes on design, etc.*

*This means so much to me. Thank you.*

The applicant attaches three photographic images to his application. These depict an existing black polished headstone with gold writing within the image of an open book commemorating a lady who died in 1997, which stands within the grounds of this churchyard; part of a polished grey headstone with white lettering, also within this churchyard, commemorating a man who died in 2009; and Mrs Brazil's mother's polished black headstone with gold lettering also within the image of an open book, which stands in a cemetery elsewhere.

3. The Rector completed the Incumbent's section of the application on 24 September 2025. She is concerned that both the wording and the design of the proposed memorial fall outside the diocesan churchyard regulations. She states that the Parochial Church Council (the **PCC**) discussed this proposal at their meeting on 17 September 2025. They resolved that:

*The wording on the monument is too long and emotional. Also the design does not fit in with other monuments in that area of the churchyard (words to be discussed).*

Commenting on the proposed inscription, the Rector records that:

*We feel that the wording is too emotive and personal and does not leave room for subsequent burials.*

Commenting on the suitability of the proposed memorial in relation to the fabric of the church, the Rector notes:

*It is a Victorian church and churchyard. Over the years we have endeavoured to maintain the uniformity and dignity of the churchyard.*

There are said to be no similar memorials on that side of the churchyard. The church stands ten metres from the grave. Commenting on the application, the Rector states:

*The Incumbent and PCC have considered the application and our principal concerns are the quality and tone of the wording and feel that the design is too elaborate for the location. We have had a complaint from a relative over another grave where the size was encroaching on her mother's site and we have had to deal with the ramifications. We do not want a repeat with this application.*

4. Before the meeting at which the Diocesan Advisory Committee (the **DAC**) discussed this application, Mr Brazil was invited to supply a plan of the churchyard showing his preferred location

for the memorial commemorating his late wife, as well as the locations of the existing memorials which are said to feature black polished stone and gold lettering. This has resulted in the production of a document comprising a site plan and aerial image of the churchyard, together with five photographic images. According to this plan, the black polished headstone with gold writing within the image of an open book stands to the east of the church building; the polished granite headstone stands to the north-east of the church building; and there is a black granite headstone which stands to the south of the church. There would appear to be nothing similar to the memorial proposed by the applicant in the part of the churchyard where he proposes to lay his wife's ashes to rest. I have reproduced this document at the end of this judgment.

*The DAC's Notification of Advice*

5. By a Notification of Advice, dated 2 February 2016, the DAC does **not recommend** this proposal for approval by the court for the following principal reasons:

*The proposed memorial falls materially outside the diocesan Churchyard Regulations in respect of lettering, colour and finish. The Committee considers that the proposal, by reason of its design and appearance, would not preserve the visual coherence and dignity of the churchyard as a whole, nor sit comfortably alongside existing memorials approved in accordance with the Regulations. Though there may be some examples of polished headstones in the churchyard, it appears that these are few, and not in the immediate area of the proposed headstone. Furthermore, it is advised that gold lettering on a polished surface will last only 10-30 years whereas a carved inscription on a suitably hardwearing stone may last centuries. The Committee also has concerns that the language proposed is overly informal in style and would not be consistent with the character of the churchyard as a whole.*

The DAC advises that in its opinion the proposed memorial is not likely to affect either the character of the church as a building of special architectural or historic interest, or the archaeological importance of the church, or any archaeological remains existing within the church or its curtilage.

6. The applicant has provided a written response to the DAC's Notification of Advice. While he understands, and respects, the need to maintain the character and dignity of the churchyard, he formally requests me to exercise my discretion to grant a faculty for the memorial as submitted. His request is based upon the following grounds:

7. First, the wording of the proposed inscription is said to be of profound personal and spiritual significance to the family. It is not merely a set of words, but is said to be a true reflection of Deborah's life, faith, and her unique identity. In light of the ruling by the Arches Court of Canterbury in *Re St Giles, Exhall* [2021] EACC 1, [2021] PTSR 1622, the applicant believes that a memorial should be permitted to reflect the individuality of the deceased. The proposed wording is said to be respectful, consistent with Christian values, and essential to the family's grieving process. The court is invited to note that the applicant has omitted the names of all their grandchildren, leaving just his own name and the names of their two sons, Casey and Sonny

8. Second, the choice of black polished standard granite with gold lettering has been made with the utmost care. While the applicant acknowledges that this falls outside the standard churchyard regulations, he contends that it is not 'out of keeping' with the environment. Within the churchyard, there are already said to be several examples of non-standard stones, as in the images he has provided. This particular memorial was selected for its durability, ensuring that it remains a dignified, and well-maintained, tribute for generations to come, without the risk of any erosion or decay. If need be, the applicant would be content to change to a non-polished finish granite. He points out that Deborah had chosen this type of stone for her own mother's memorial after she

died 18 months before Deborah. It was the only one that Deborah liked, which in itself means so much.

9. Third, the loss of the applicant's wife has been a devastating experience for their family. The process of designing this memorial has been a central part of their healing process. To have the core elements of her attributes - her *'voice'* through the inscription, and her personality through the stone - denied has caused significant additional distress. The family seek a memorial that is a *'fitting'* tribute, and they believe that the current design achieves this balance of beauty and reverence. The court is invited to note that this proposed headstone would be situated in a quite discrete side of the churchyard, on the boundary, under a tree, near an oil tank, backing on to the boundary hedge. It is said that this is not the most outstanding or desirable area. It is a rarely visited section of the churchyard, remote and kind of out of sight. Nevertheless, this would remain a special place to the family. Mr Brazil proceeds to describe the profound grief he is feeling at the loss of his wife, whom he had known since she was 15 years old, after 38 years of marriage. He explains the effect that Deborah's loss has had on their two sons and five grandchildren, and on Deborah's siblings and her father, who is ill with cancer. The whole wider family are waiting to visit Deborah's resting place. She loved the church. Mr Brazil is finding this all so unbelievable and hard to say the least. Mr Brazil is prepared to meet with a representative of the DAC or the Registry at the graveside to demonstrate how the proposed stone would sit harmoniously within its specific surroundings. He asks the court to consider this petition not just as a request for a headstone, but as a request to honour a beloved member of this community in a way that is truthful to her memory.

10. When this petition was first referred to me, on 6 February 2026, I was told that when issuing its Notification of Advice, the DAC had commented that it wished to encourage the incumbent to engage with the applicant with regards to the inscription, and to provide some constructive advice to help him to create an inscription that would be a fitting memorial to the deceased, and also in keeping with the character of the churchyard. The Registry clerk had written to the applicant, informing him of the DAC's views, and also of their separate comments about the inscription. She had asked Mr Brazil if he wished to continue with his faculty application, despite the DAC's decision not to recommend his proposed memorial for approval by the court. The clerk gave the applicant the option of amending his faculty application so as to ask for a memorial that would fall within the Churchyard Regulations. The Registry clerk reported to me that the applicant had telephoned her to say that the incumbent wanted him to reduce a lot of the wording of the inscription, but that this not acceptable to him. The applicant therefore confirmed that he wished to proceed with this application. As previously explained, the applicant provided a further statement by email in response to the DAC's Notification of Advice.

11. In light of the DAC's Notification of Advice, I deferred consideration of this application pending the expiry of the display period for the usual public notices. I directed the Registry clerk to write to the applicant, explaining to him the reasons for this delay. I also directed her to notify the applicant that, subject to any representations he might wish to make against that course, I considered that this faculty application should be determined on the basis of written representations. I asked the clerk to invite the applicant to indicate, within 14 days, if he had any objections to that course (with reasons); and, if not, to invite him to submit his written representations within 14 days after he should have received copies of any objections to his faculty application. By an email sent to the Registry clerk on 9 February 2026, Mr Brazil confirmed that, having considering the Chancellor's recommendations, he was more than happy to run with the written representations route.

### The Parochial Church Council's objection

**12.** On 2 March 2026, the PCC responded to the public notice stating that it had passed a resolution objecting to Mr Brazil's faculty application seeking permission for an upright memorial stone of a particular style in a specific area of the churchyard of St Peter's, Woolhampton. The reasons for the objection are as follows:

(1) The nature and style of the upright memorial do not comply with the requirements of the Church of England. It is too large, too elaborate, and the memorial wording is not in keeping with hallowed ground.

(2) The applicant is insistent that the interment should be in a specific area of the churchyard that is (a) one of the few remaining areas the parish still have for regular burials and (b) has a water supply running from the neighbouring Church of England schoolhouse to the church: see photograph 1 below.

(3) The PCC have an area for interments that have modest upright memorials, and this has been offered to Mr Brazil on the understanding that the upright memorial conforms to the neighbouring interment plots: see photograph 2 below. It would appear that he has rejected this offer.

(4) Should Mr Brazil decide to opt for a flat memorial plinth, the PCC have offered a place within the area for such interments: see photograph 3 below. It would appear that he has rejected this offer.

**13.** It is the PCC's opinion that it has offered all it can to accommodate the interment of the ashes of his late wife, but Mr Brazil has sought to circumvent the PCC's offers in order to have an overly lavish upright memorial in an area it has designated for burials. The PCC makes clear its strong objection to the proposed style and positioning of the interment. It stresses that the church has bent over backwards to allow Mrs Brazil's ashes to be interred with dignity, both for her and for those who reside in the churchyard. The proposals have been discussed at length with Mr Brazil, who has chosen to reject them, and to make this faculty application.

**14.** By email dated 5 March 2026, the Registry clerk wrote to the PCC acknowledging receipt of the PCC's letter of objection. She attached the Registry's standard letter under rule 10.3 of the Faculty Jurisdiction Rules 2015 as amended (the **FJR**) setting out the options open to the PCC as to how they might wish their objection to be treated, and inviting a response by 26 March 2026.

**15.** On 25 March 2026, the PCC Secretary replied to the Registry clerk stating that at its meeting on 18 March, the PCC had discussed her letter offering the option to join in these legal proceedings according to the FJR. The PCC had unanimously decided not to become a formal party to the legal proceedings. The PCC wished to take up the option of leaving its letter of objection on the record for the Chancellor to take into account when deciding whether or not to give permission for Mr Brazil's proposals.

### The applicant's response

**16.** By email sent on 12 April 2026, Mr Brazil formally responded to the PCC's objections regarding his faculty application for the memorial to his late wife. He expresses both surprise, and concern, at the content of this objection, since he says that several of the points raised had already been discussed and, so Mr Brazil believed, resolved in previous communications: *"To be clear, the size and style of the memorial are not in dispute and have already been agreed; it is my understanding that the only*

*remaining points for discussion are the specific wording, the colour of the lettering, and the polished finish of the stone.*” Mr Brazil addresses the points as follows:

(1) Nature, Style, and Size of the Memorial

The objection states that the memorial does not comply with requirements regarding size and scale. Mr Brazil reiterates that the headstone in question is a standard, upright memorial, consistent with the style and size of the existing headstones throughout the churchyard. These specifications were previously agreed upon, and the stonemasons have already been in direct contact with church representatives regarding them. Mr Brazil states that he is confused as to why the size is being raised as an objection now when it was previously accepted as a standard design.

(2) Location and Interment Area

Regarding the specific area of the churchyard, Mr Brazil states that he has already acknowledged the concerns regarding the water supply. Consequently, it was suggested, and agreed, that the memorial should be placed to the right of the current memorials to avoid this issue. As this was a mutual agreement, Mr Brazil does not understand why this is being presented as a point of ‘insistence’ or conflict.

(3) Alternative Offers and neighbouring plots

The document suggests Mr Brazil has rejected offers for alternative modest memorials. For the record, Mr Brazil states that he has not been offered alternative locations within the churchyard, nor has he rejected such offers. The size and style of the current proposal were chosen to be respectful, and have already been approved in principle during prior discussions.

(4) Flat Memorial Plinth

The PCC mentions an offer for a flat memorial plinth. Mr Brazil wishes to clarify that a flat plinth has never been discussed with him, nor was it ever offered as an option. Furthermore, it is not something he would consider, as it does not align with the standard memorials in the churchyard or his family's wishes.

**17.** Mr Brazil concludes as follows:

*It has now been over a year since my wife passed away. My only desire is to ensure that her final wishes — to be laid to rest at St Peter’s, Woolhampton — are fulfilled. Her grandchildren and our entire family have been waiting a long time to have a proper place to visit and pay their respects. This ongoing delay is causing significant distress to the family and indeed my stress/ mental health*

*I would ask the PCC to review their records of our previous agreements, as much of this objection appears to overlook the progress and verbal approvals already made. I remain committed to ensuring my late wife is interred with dignity in a manner that respects the beauty of St Peter’s, Woolhampton.*

*The Churchyard Regulations*

**18.** There is no right to erect a memorial over any grave without either the permission of the diocesan chancellor, pursuant to the grant of a faculty, or the permission of the incumbent minister, in circumstances where the chancellor has delegated authority to the incumbent to grant permission for memorials under churchyard regulations. In principle, the introduction of any item into a consecrated Church of England churchyard requires a faculty; but it is conventional for chancellors to make schemes of delegation, usually by means of what are termed ‘*Churchyard Regulations*’, although until very recently these had no formal basis in ecclesiastical statute law. If a

memorial does not wholly conform to the specifications set out in the applicable churchyard regulations, the incumbent will lack any delegated authority to permit that memorial, and it will be necessary to apply to the chancellor for a faculty.

**19.** The Churchyard Regulations for the Diocese of Oxford were issued by my predecessor on 8 November 2016. They came into operation on 1 January 2017. The applicant’s proposed memorial falls outside these Regulations in a number of material respects. Although the dimensions are acceptable for a headstone, by regulation 13 a headstone (which may take the form of a representation of a book) “*may be introduced only at the place where the body of the person to be commemorated by the monument is buried*”. In the case of cremated remains, the appropriate form of commemoration is a ‘*ledger stone*’: see regulation 23. By regulation 4 d, this means “*a flat stone slab marking the place of interment of cremated remains*”. By regulation 27, this must be laid so that its upper surface is flush with the ground. By regulation 30, a ledger stone may not take the form of a representation of a book. By regulation 36, the surface of the stone must not be made reflective by being polished or finely honed. By regulation 37a, the colour black is not permitted. Regulation 38 provides that “*a monument or ledger stone may include an inscription provided it is simple, reverent and not contrary to the doctrine of the Church of England*”. By regulation 41, an inscription must be incised or in relief and may be uncoloured, grey or black only.

**20.** It follows that this proposed memorial would fall foul of the Regulations in terms of its form, its design, its colour (unless grey is used instead of black), its polished finish, its gold lettering for the inscription, and the length and detail of the proposed inscription, which scarcely qualifies as ‘*simple*’. However, regulation 4 g of the Regulations expressly recognises that any “*reference to a matter being permitted or not permitted applies only for the purposes of these Regulations; and it does not prevent any monument or ledger being introduced or removed under the authority of a faculty or other order issued by the Consistory Court*”.

#### The legal framework

**21.** Until June 2021, ecclesiastical case law had disclosed two competing approaches to applications for a faculty where there was non-compliance with the relevant Churchyard Regulations: one required ‘*exceptional*’, ‘*powerful*’ or ‘*substantial*’ reasons for departing from the Regulations; the other simply asked whether the proposed memorial was ‘*suitable*’. In Re St Giles, Exhall [2021] EACC 1, [2021] PTSR 1622 the Arches Court of Canterbury (Morag Ellis QC, Dean, Chancellor Turner QC and Chancellor Arlow) considered these different approaches and how churchyard regulations should be used in decision-making. At paragraph 11.8, the Arches Court considered the right approach to be a ‘*merits-based*’ one:

*Clearly, any Regulations in place for the parish or diocese concerned will be part of a matrix of relevant considerations, but we do not think that consideration of a faculty petition should start with a presumption against allowing a memorial outside the parameters of the Regulations ...*

**22.** The Arches Court cited with approval the approach articulated in a number of first-instance judgments. I would summarise this approach as follows:

(1) As is the case with any faculty petition, the burden of proof lies on the petitioner to show why a faculty should be granted to authorise the particular proposed memorial.

(2) The terms and content of the applicable churchyard regulations will, of course, be a relevant factor – often highly relevant, and doubtless, on occasion, determinative. But they will only be one of the constellation of infinitely variable factors which the court must consider on a case-by-case basis.

(3) The court should approach the suitability of the proposed memorial on its own merits, the only constraint being the inability of the court to permit something which is contrary to, or indicative of any departure from, the doctrines of the Church of England in any essential matter.

(4) Mere non-compliance with the regulations, of itself, can never be the only basis on which to refuse a faculty petition. It is necessary to consider whether the particular memorial in question is inherently desirable, or at any rate not undesirable, whether or not it complies with the standards of the regulations.

The Arches Court noted that this section of their judgment was not essential to the determination of the appeal in the case that was before them; but they expressly stated that they intended it “*to be of assistance to chancellors, clergy and all others involved in administering the faculty jurisdiction in relation to memorials in consecrated churchyards*”.

**23.** In *Re St Mary, Great Chart* [2022] ECC Can 2 (in the Diocese of Canterbury) the petitioner wished to install a replacement memorial on his parents’ grave. The design included images of a dove, a stairway to heaven, and two swans. The inscription included a verse of poetry written by the petitioner’s daughter; and it ended with an X (the symbol of a kiss). There was an objection that the proposed design would not be in keeping with that part of the churchyard where the memorial would be located; and that this might set a precedent for future headstones with designs that were out of kilter with that part of the churchyard. The PCC were supportive of the petition, as was the incumbent; and the DAC had also recommended the design for approval by the court. The Commissary General (Robin Hopkins) granted a faculty for the proposed design of the memorial, subject to a condition relating to the inscription. In the course of his judgment (at paragraph 11), the Commissary General recorded that in assessing the appropriateness of the proposed design, in particular in light of the points of objection, he had derived assistance from the principles discussed in a number of other decisions of the consistory courts of other dioceses. So far as relevant to the instant petition (where there was no issue as to the proposed inscription), the Commissary General highlighted (on a non-exhaustive basis) the following examples of such principles and decisions:

(1) There is no right to erect a monument in a churchyard except by permission granted by a faculty (though this is often delegated to the incumbent minister). Headstone wording and imagery must be consistent with the consecrated status of churchyards; and they must be appropriate, not only from the perspective of petitioners, but also (as far as can reasonably be assessed) for future generations. In *Re Christ Church, Harwood* [2002] 1 WLR 2055 at page 2056, Chancellor Holden put it this way:

*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.*

(2) Where a proposed design is contrary to the applicable churchyard regulations, the fact that there are other memorial headstones in the same churchyard that are also contrary to those regulations will not be a sufficient justification without more. On the other hand, the presence of other headstones that similarly fall outside the relevant regulations is a relevant consideration.

(3) It is appropriate to give weight not only to the views of the PCC and the incumbent, but also to pastoral considerations.

In giving reasons for his decision, the Commissary General noted (at paragraph 13 (vi)) that whilst he had given weight to the objectors' concern about the risk of the instant faculty setting a precedent for others in this churchyard, each petition for the introduction of a new, or replacement, headstone would be assessed on its own merits, including by reference to the proposed design, and its positioning in relation to the church and to other headstones. The grant of the faculty in that case did not mean that a faculty would necessarily be granted for other, comparable proposals in the future.

**24.** Finally, I turn to look for guidance on the issue of the proposed inscription. At paragraph 8.7 of its judgment in *Re St Giles, Exhall* [2021] EACC 1, [2021] PTSR 1622, the Arches Court of Canterbury asked itself (as Chancellor Turner QC had done in argument): “*What is a monument over a grave? What is it there to do?*” The judgment continues:

*Answering his own question in the terms of the Church of England’s The Churchyards Handbook, he said: ‘To honour the dead, to comfort the living and to inform posterity.’ None of the counsel disagreed with this formulation and we endorse it as a usefully pithy statement of the purpose of such monuments which we have used to inform our consideration of Ground 1, as well as aspects of the human rights issues. We commend the summary to chancellors and to all others involved in the consideration of memorials within the faculty jurisdiction.*

Analysis and conclusions

**25.** Since this faculty application is not formally opposed, I am satisfied that it is expedient, in the interests of justice, and in furtherance of the overriding objective of the FJR of dealing with this case justly, cost-effectively, proportionately, expeditiously, and fairly, for me to determine this petition without any hearing, and on the basis of the materials that have been presented to the court. I note that Mr Brazil consents to this course. Although the PCC is not a party opponent, it has objected to this faculty application. I must therefore take the PCC’s objections into account. Mr Brazil clearly considers that several points raised by way of objection have already been discussed and, so Mr Brazil believes, resolved in previous communications with the PCC. However, the style and design of this proposed form of memorial is clearly contrary to the regulations that apply in the case of cremated remains, as well as falling outside the requirements for a headstone commemorating a full body, coffin interment. Neither the incumbent minister, nor the PCC, have any lawful authority to agree such matters. Further, Mr Brazil seems to have been labouring under the serious misapprehension that since his proposed headstone is a standard, upright memorial, consistent with the style and size of existing headstones throughout the churchyard, then it is acceptable in principle. However, this is not a full body, coffin, burial but rather a cremated remains interment, as to which very different considerations apply.

**26.** The issue in this case is whether the applicant has demonstrated that it is desirable – or, at any rate, not undesirable – to permit this particular memorial to be installed within this churchyard even though it fails to comply with several aspects of the applicable churchyard regulations. I understand the profound grief that the premature loss of his beloved wife, after so many years of companionship, and marriage, has caused to Mr Brazil, and also to his sons and grandchildren, and to Mrs Brazil’s own family members. I understand the additional disruption to the grieving process that the present delay, and uncertainty, in laying his late wife to rest has caused to all of them. I appreciate the profound pastoral considerations to which all of this gives rise. However, as well as the interests of Mr Brazil, and his family members, I must have regard also to the rights and interests of all the parishioners, of the local community, and of the Church and society at large, when deciding whether to permit this memorial, which is likely to last through future generations, to be placed within this churchyard. Churchyards are consecrated ground. They are set aside for burials and interments; and they are places for quiet contemplation and remembrance. They are

also a part of our national history. They matter to many people, especially, but not only, to those whose loved ones' remains rest there. They are also important to parishioners, historians, archaeologists, ecologists, visitors, and many others. I have to consider the overall beauty and tranquillity of this churchyard as a whole.

**27.** I am entirely satisfied that it is undesirable to permit this particular memorial to be introduced into this churchyard, and especially in the particular location that Mr Brazil proposes. It is for the incumbent minister to decide whereabouts in their churchyard any given burial shall take place. Even if this court has the necessary power to interfere with, and overrule, the incumbent's decision, it should hesitate to do so unless that decision is demonstrably irrational or capricious. Here, the PCC has stated that Mr Brazil's proposed resting place for his wife's cremated remains is one of the few remaining areas the parish still have for regular burials. That is sufficient reason for this court to refuse to intervene concerning the location of the proposed interment. Mr Brazil does not suggest that this particular location has any special significance for his family in terms, for example, of its close proximity to any existing family graves. That constitutes a further reason for leaving the matter to the discretion of the incumbent minister.

**28.** I am also satisfied that it is undesirable to permit a memorial in black coloured stone, a memorial with a reflective surface, or a memorial with lettering in gold colour. Beyond the facts that this was the preference of the late Mrs Brazil, as expressed in the choice of memorial for her late mother, and, as a result, that is the preferred choice of Mr Brazil and his family, no good reason has been shown for such a widespread departure from the applicable churchyard regulations. What may be permitted within an unconsecrated, local cemetery is not necessarily appropriate for a consecrated, historic churchyard surrounding a Grade II listed, Victorian church building. I am in full agreement with the reasoned assessment, and conclusion, of the DAC, as expressed in its Notification of Advice. By reason of its design and appearance, in respect of lettering, colour and finish, Mr Brazil's proposed memorial would not preserve the visual coherence and dignity of this churchyard as a whole. Nor would it sit comfortably alongside existing memorials, approved in accordance with the applicable churchyard regulations. Although there may be isolated examples of polished headstones in the churchyard, these would appear to be very few in number; and they are not in the immediate vicinity of this proposed headstone. Mr Brazil has offered no expert evidence to challenge the DAC's understanding that gold lettering on a polished surface will only last for some 10-30 years, whereas a carved inscription on a suitably hardwearing stone may last for centuries.

**29.** I also share the DAC's concerns that the language proposed for the inscription is overly informal in style, and would not be consistent with the character of the churchyard as a whole. I agree with the PCC that the wording is not in keeping with hallowed ground. I shall say no more than that I find it to be unduly sentimental, overly long in content, and far from simple. As well as honouring Mrs Brazil, and informing posterity about her, there is an unduly intense focus upon an expression of her family's grief at her passing. I cannot approve an inscription in these terms. Furthermore, insufficient space is left on the headstone for any additional inscription to be added should there be any further interment in the same grave in the future. That affords an additional reason for my refusal.

**30.** I have every sympathy for Mr Brazil, and his family, in their grief at the loss of a much-loved wife, mother, and grandmother. However, for the reasons, I have given, I dismiss this faculty application. In light of Mr Brazil's apparent disinclination to consider any alternative, and more modest, proposals for his late wife's memorial, I see no reason to proffer any alternative suggestions to him.

31. In accordance with my usual practice, I charge no fee for this written judgment. However, I should sound a note of caution for the future. It is entirely permissible for an applicant to pursue an application for a faculty for a memorial that falls outside the churchyard regulations, even in the face of an adverse recommendation from the DAC. Indeed, I have granted such applications in the past. Every application must be determined on its own individual merits. However, applicants in such circumstance should be aware that, in the future, I may order them to pay the consequential costs of any written judgment (and hearing) should their application fall to be dismissed.

32. Mr Brazil must pay any additional costs incurred by the Registry in processing this faculty application.

*David R. Hodge*

The Worshipful Chancellor Hodge KC

Saturday, 2 May 2026

The applicant's plan and photographs



Photo 1 – Route of water supply through the churchyard to the school building over the small area left available for regular burials



Photo 2 – Style of upright memorials in neighbouring plots



Photo 3 – Style of flat memorial plinths in the graveyard

