The incumbent had refused permission to the petitioner for the introduction of a York stone memorial over her husband’s grave on the basis that ‘the regulations’ required memorials in that area of the churchyard to be of honed grey stone. The petitioner sought a faculty permitting the introduction of the memorial. The incumbent and the Parochial Church Council (PCC), supported by the archdeacon, were opposed to the petition on the basis that there was a longstanding rule, agreed by the PCC and understood by local memorial masons, that only honed grey memorials would be permitted in the relevant area. They argued that to allow the petition would be to introduce a visual disharmony into that area, would set a precedent to encourage further disharmony and would be unfair to those who had abided by the rule in the past. A number of individuals wrote letters of objection in support of that position, although none chose to become parties opponent.

Obiter, the chancellor expressed the view that no special burden lay upon a petitioner who sought permission for a memorial which lay outside the churchyard regulations. Rather, the chancellor simply had to be satisfied that the memorial was suitable, although some proposed departures from the regulations, such as kerbs or chippings, would be unsuitable. The chancellor noted that York stone memorials were permitted under the diocesan churchyard regulations and that there was no other objection to the proposed memorial. No minute could be produced of a PCC resolution limiting the colour of stone in that area of the churchyard,
although around 90 per cent of the memorials in that area were honed grey. The chancellor doubted, but did not decide, whether such a decision had been made by the PCC. He acknowledged that variations to the churchyard regulations might be necessary and advisable from time to time in relation to particular churchyards. Nevertheless, if the regulations were to be altered, the chancellor would need to authorise any changes,

(2018) Eccles. Law J., 20, 243–244 at 244

not least because of the confusion which might otherwise arise from potentially conflicting provisions appearing to apply to the same churchyard. Here the chancellor had not been asked to authorise any variation to the regulations. In relation to this petition, the chancellor held that the fear of disharmony from the introduction of different colour stones was overstated – the real risk to harmony came from unauthorised additions such as kerbs, chippings and statues. The faculty was granted and the chancellor expressed the view that if his authorisation of the suggested PCC policy was to be sought, he would need to be satisfied of widespread support within the parish as a whole. [RA]