

Neutral Citation No. [2017] ECC SEI 6

IN THE CONSISTORY COURT

DIOCESE OF ST. EDMUNDSBURY & IPSWICH

In the matter of

SS PETER AND PAUL, PETTISTREE

-and-

In the matter of:

**AN APPLICATION FOR A RESTORATION ORDER BY THE
ARCHDEACON OF SUFFOLK, THE VENERABLE IAN MORGAN**

Specially Cited: KEVIN BLYTH, Churchwarden, and MARGARET HALLETT, formerly Churchwarden, on behalf of THE PAROCHIAL CHURCH COUNCIL; STEPHEN CLAYDON and JOHN E. HOGG on behalf of R & J HOGG LTD (John E. Hogg and R & J Hogg removed from citation at the conclusion of the hearing)

Judgment of the Chancellor

October 31, 2017

JUDGMENT

1. In this case, I have granted the Application for a Restoration Order requested by the Archdeacon of Suffolk following a significant breach of the conditions contained in a Faculty petitioned for by the Vicar and Churchwardens (as they then were) of SS Peter and Paul, Pettistree. The breach was the use of *Zinsser* Grade 1 paint (hereinafter “ZS”) on the walls in the nave contrary to the terms of the Faculty which required that four coats of limewash be applied to them. The paint applied has subsequently failed, leaving an unsightly mess. I have concluded that the

breach was both deliberate and avoidable. I have also concluded that the sole responsibility for the breach was that of the architect. I make orders concerning costs of the hearing and costs of complying with the Restoration Order (hereinafter the “Restoration Works’ Costs”), subject to the parties affected having the right to make written representations to me about the calculation of the sums within 28 days of receiving notification of the estimated Restoration Works’ Costs from the Petitioners and the taxed court costs from the Registry.

2. **Overview:** This case is about events that occurred, primarily in 2014, at SS Peter and Paul, Pettistree, in the Diocese of St Edmundsbury and Ipswich, and within the jurisdiction of this Court. There was a petition to allow renovation and redecoration in parts of the church. It was an unremarkable petition of the kind the Court receives throughout the year. It contained a specification for the works to be carried out under the supervision of the architect, Stephen Claydon. He is an architect who is well known to be competent and proficient in carrying out work under Faculty at churches within this Diocese. R and J Hogg Ltd were the principal contractors. They are also highly regarded and of long standing in this diocese, though I confess I had not appreciated, until hearing Mr. John Hogg give evidence, just how long his family have been involved in this work - stretching back to the reign of Queen Victoria.
3. The Faculty required the nave walls and the ceiling to have four coats of limewash applied to them after the existing emulsion had been removed. This was part of the specification and the Faculty granted permission to renovate and redecorate in accordance with the specification. It also required the faculty to be shown to the contractor if appropriate. The Faculty passed the Seal on April 22, 2014.
4. Works commenced in October 2014 and a problem arose. When the emulsion had been removed, the state of the fabric underneath (described by Mr. Blyth as “patchy” and “deep green” in areas) suggested that four coats of limewash might not be sufficient and there was some concern as to whether limewash was even the appropriate substance to place on the walls at all. The architect considered certain alternatives (patches were painted at the back of the church) and eventually favoured a product (hitherto unknown to him) called ZS. He received feedback from those who saw the samples on the walls and the ZS product was the one most liked. From the architect’s researches, ZS appeared to him to be the best substance to give the desired finish and he recommended it to the Parochial Church Council (hereinafter “PCC”). So far, so good.
5. However, on November 12, 2014 the contractors, R and J Hogg Limited, (hereinafter “RJH”) emailed the architect questioning this choice. The email refers to *Classidur* (another substance used with success in churches and ancient buildings and wrongly thought at this time to be no

longer manufactured) but it is accepted that this was a mistake and was meant to refer to *ZS* and was understood to do so at the time. In any event, the architect had a telephone conference with John Hogg that evening and it was clear to him that he was recommending, and the contractor expressing strong reservation about, the use of *ZS*. I accept that Mr. Claydon was sincerely convinced that *ZS* was the best paint to use in this church.

6. There is then a dispute of sorts as to whether the architect persuaded the contractor that *ZS* was suitable or whether the contractor accepted a *fait accompli* under protest. Having heard both Mr Claydon and Mr Hogg give evidence, I incline to the latter view but, in any event, I accept that the contractor did agree to use it as it was a contractual instruction.
7. At a meeting with the PCC, the architect recommended *ZS* and received the PCC's acceptance of his suggestion. One member of the PCC, Mrs. Margaret Hallett, who was a churchwarden then and also one of the petitioners had queried whether this created any conflict with the Faculty, which had specified four coats of limewash. The architect considered it did and agreed to contact James Halsall who is the secretary of the Diocesan Advisory Committee (hereinafter "DAC") and obtain what she thought was said to be a "retrospective" faculty, although, in evidence, she very fairly added that she could not be certain that this was the word used. The architect does not remember using the word "retrospective". In my experience, some of the terms used in the Faculty Jurisdiction become rather interchangeable in ordinary conversation and I would not like to say *at that precise stage* whether the architect was referring to a variation in the Faculty before the *ZS* was applied or a Confirmatory Faculty after it had been applied without permission.
8. By November 20, 2014 he had instructed the contractor to apply the *ZS*. He had not referred the matter to the DAC secretary beforehand. He had not informed the PCC of this failure. He knew full well that he had no permission to apply *ZS* to the fabric and I am satisfied so that I am sure that, by the time of that instruction, he had no intention of advising the PCC to seek the necessary consent from the Court before *ZS* was used in the church. If he had intended to do so he would have mentioned the need for a variation of the Faculty to the contractor when instructing him to use *ZS*. I am also satisfied as to his likely reason, which is that he thought it did not really matter whether he notified the Court or the DAC before or afterwards. I accept that his mind was influenced by a number of pressures which caused him to convince himself, both then and later, that this was a proper course. This stood out to me clearly when he gave his evidence despite the evident discomfort he now has with hindsight.
9. The *ZS* was applied in December 2014. By January 2015 it was already flaking off the walls. It had not taken. I could not avoid viewing the sad

mess around me from where I sat to conduct the hearing. From January 2015 until early 2017 there were genuine and heartfelt efforts to try and resolve this problem by a number of people including the Registry, the PCC and the Archdeacon of Suffolk but they failed. I was presented the problem by the Registrar in September 2016 without any proposed solution. I asked the Archdeacon to consider applying to me for a Restoration Order, failing which I would have proceeded of my own motion. He did so. I cited, by special citation, the then churchwardens, Stephen Claydon and RJH. They all promptly and fully complied with my Directions and so it was that the Court convened in SS Peter and Paul, Pettistree, on the damp morning of September 29, 2017 to hear and determine the Archdeacon's application. I read the Statements of Truth of all of the parties and the accompanying exhibits submitted. The Archdeacon of Suffolk, Mr. Kevin Blyth, Mrs. Margaret Hallett, Mr. Stephen Claydon and Mr. John Hogg all gave oral evidence on oath and each party was given the opportunity to ask questions of every other party.

10. At the conclusion of the hearing, I ruled that there had been a breach of the Faculty (as was admitted by all parties) and that there was no case to answer on the part of RJH that it had been in any way involved or complicit in or with the breach and I removed RJH from the citation. On the contrary, RJH behaved entirely properly and responsibly in my judgment throughout and the company should be commended for its professionalism and perception in this unfortunate narrative. For the rest, and for my further directions, I reserved my judgment.
11. **The Issues.** These can be stated simply although the resolution of some of them is more complicated. (1) – Did the application of ZS to the fabric of the Church require a variation of the existing Faculty? (2) – Was that variation ever sought? (3) – If not, was it anybody's fault that the variation was never sought? (4) – What was the consequence? (5) – Should a Restoration Order be made? (6) In what terms? (7) – Who should meet the court costs of this hearing? (8) – Who should meet the Restoration Works' Costs? (9) What is the way forward? (10) – Are there any consequential orders that should be made?
- 12.(1) - Did the application of ZS to the fabric of the Church require a variation of the existing Faculty? Yes, nobody disputes that. The specification permitted by the Faculty (reference SC/4630 rev C) was for four coats of limewash.
- 13.(2) - Was that variation ever sought? No and nobody disputes that either. This means that the Faculty was breached.
- 14.(3) - Was it anybody's fault that the variation was never sought? Yes. It was the architect's fault.
 - a. It was the architect who decided that ZS paint should be applied.

- b. He realised an application by the PCC to vary the Faculty was required.
- c. He told the PCC he would make the necessary arrangements with the Secretary to the Diocesan Advisory Committee. He did not do so or inform the PCC that he had not done so.
- d. RJH expressed, at the least, strong reservations about using ZS paint. These were overridden by the architect, either by strongly persuading RJH to use ZS paint or by insisting upon it as a contractual requirement.
- e. At no stage did he tell RJH of the need to obtain a variation of the Faculty. Nor did he ever tell the PCC of RJH's reservations. I reject his view that this was an "internal" matter of the sort occurring all the time. I accept internal matters that do not need transmission do occur all the time between architects and contractors. This one, however, went to the heart of the very variation the architect was proposing and about which he knew RJH had, at the least, substantial reservations. RJH was never shown the Faculty.
- f. Mr. Claydon told me that had a variation been sought, he would not have told me of the contractor's reservations. I have had to consider whether failing to inform either the PCC or myself was a routine matter or whether *this* reservation was one that should have been communicated to the PCC and (if a variation had been applied for) to me. I have no hesitation in concluding that it is a concern that should have been communicated to the PCC and, even more obviously, to me. I regret that I am also clear as to why Mr. Claydon did not do this. It was because he thought it might delay the work, involve the church being unready for a planned wedding and cause an increase in cost. All of these concerns were primarily altruistic, and I accept that, but all of them could also (as it happens) have been accommodated. Even had this not been the case, it provides only some mitigation, but absolutely no justification, for not seeking the required variation.
- g. I have considered whether the PCC bears any blame for not having sought the variation itself. After all, the PCC is the petitioner through the incumbent and churchwardens. It is a permission given to those named individuals on behalf of the PCC. Should they not have checked to see that a variation had been sought and approved? I have had to consider that point carefully, but I have concluded that on the facts of this case, it would be unfair to hold the PCC or the petitioners at fault and I am not sure that the architect would really wish me to conclude otherwise. Mr. Claydon is an honourable man and the member of a profession. To say, in

all the circumstances of this case, that it was in some way the fault of the PCC that a variation was not sought would be deeply unattractive and Mr. Claydon has never argued for that finding.

- h. To begin with, the PCC were not in possession of the full facts. The reason for that is already clear. Second, they trusted Mr. Claydon to do as he had promised: namely to contact the DAC, through James Halsall, and “set in train the process to vary the faculty” (Mr. Claydon’s Statement of Truth). Mr. Claydon did not do this. He did not tell the PCC he had not done it.
- i. Next, I am satisfied that Mr. Claydon’s failure to seek a variation of the Faculty was deliberate. Some time was spent at the hearing ascertaining why Mr. Claydon did not obtain a variation. In his Statement of Truth he said that “making contact slipped my mind and was my omission.” I asked him about that statement and whether that could really be the explanation.
- j. The reason I doubted whether that could truly be accurate was that it seemed to me to fly in the face of common-sense. First, there was the issue of RJH’s reservations, communicated to Mr. Claydon on Wednesday, November 12, 2014 at 1253 where John Hogg explicitly stated: “I am concerned that we have gone to the trouble and expense of removing the impermeable paint from the walls and are now going to replace with another impermeable paint. This will only result in a year or two’s time in a repeat of the problem they have now.” This was a remarkably prescient email save that the problem arose much sooner. Next, there is the phone call/meeting between the architect and John Hogg shortly afterwards and already referred to. Finally, there is the contract instruction No 2, dated November 20, 2011 (there is a typographical error in that the year is wrongly typed as 2012) which instructs the omission of the specified limewash and the use of ZS.
- k. It seemed to me in the highest degree unlikely that Mr. Claydon simply forgot he had failed to set the wheels in motion for the variation of the Faculty during all of this.
- l. In evidence, he tried to explain to me that it was a mixture of forgetting to do it and deferring the decision, but, I think, conceded that it cannot logically have been both and must have been “deferral” until after the ZS had been applied. And “deferral” is a euphemism for breaching the Faculty in the hope and expectation that a Confirmatory Faculty would be forthcoming afterwards as a matter of routine. I found Mr. Claydon’s explanation on this aspect involved a degree of self-persuasion that he had not been deliberately breaching the Faculty. He drew my attention to my previous permissions in the diocese to use *Classidur*. He went on

to say that *Classidur* had been compared with *ZS*. Ergo, he concluded that any possibility of my refusing the variation was remote. I reject this line of reasoning. Here, not only was Mr. Claydon instructing works he knew required a variation, which he also knew had not been sought, but he was keeping the key facts to himself and, in effect, substituting his judgment for that of the Court. Thus, the need for a variation was never revealed to RJH and RJH's concerns were never revealed to the PCC. Having decided to go ahead without the variation, I accept that it might then have left Mr. Claydon's mind for the reasons he gave, but I am convinced by the evidence that the overriding reason for that was that Mr. Claydon thought it was acceptable to get permission after the event.

- m. *ZS* – Mr. Claydon raised with me at the Directions phase whether Tor Coatings Ltd, the manufacturer, as I understand it, of *ZS*, should not be a party to these proceedings on the basis that it was responsible for the failure of the paint on the walls of this Church in that it may not have performed, or even been capable of performing, in the way it was described on its advertising literature or in oral representations, as permeability was an essential requirement.
- n. I declined to cite Tor for a number of reasons. First, Tor was not responsible for *ZS* being applied *illegally* to the fabric of the church. Second, the Consistory Court is not responsible for determining contractual relations between parties outside of the Faculty Jurisdiction. Three, I cannot see how, on the facts of the case, the Court would have any jurisdiction to make any orders in respect of Tor Coatings. Even if the first three considerations were not conclusive as barriers to citing, or in some other way joining Tor Coatings Ltd to these proceedings, there is, fourthly, no satisfactory expert evidence as to what actually caused the paint to fail.
- o. It is difficult to conclude with certainty now whether or not I would have permitted a variation of the Faculty to permit the use of *ZS* paint instead of the four coats of limewash, but it is highly unlikely, at least without much more substantial testing. The architect was impressed by the literature he saw on the product. But I would also have wanted to know RJH's view. Mr. John Hogg summarized them in evidence with dramatic simplicity: if *ZS* had the ability to offer unparalleled stain blocking how could it also have the permeability claimed for it? Its use in another East Anglian church, outside of this diocese, was highly successful but Mr. Claydon told me it now appears that the other church's

condition and SS Peter and Paul's are not properly comparable. Mr. Claydon also told me that he was told by a representative of Tor Coating that ZS had been used with success on a number of buildings of antiquity, but also that no actual examples could be given to him – simply the quantity of paint used. For all those reasons, having explored the facts, I cannot see myself having given permission to use it without a good deal more information and testing.

- p. The real point is that it was never for Mr. Claydon to make the final decision, whether he did so carefully or not, and I am not in fact satisfied that his own inquiries or testing were sufficiently rigorous in any event.
 - q. But I make clear, that I am making no determination as to whether or not exaggerated or inaccurate claims were being made on behalf of ZS. Mr. Claydon believes that the most likely explanation for the failure of the paint was that ZS was not breathable, but this in no way reduces the architect's responsibility not to have proceeded without a variation of the Faculty.
- 15.(4) - What was the consequence? The consequence was the unauthorised substance, ZS, was applied to the nave walls. It failed and from January 2015 the paint has been falling off.
- 16.(5) - Should a Restoration Order be made? Yes. The church cannot be left as it is. The parties have not been able to present me with any proposal that would avoid the need for a Restoration Order and I have no reason to think that they ever would be able to do so. A Restoration Order is both justified and is required.
- 17.(6) - In what terms? I am satisfied that its terms should require the church to be placed in at least the position it would have been had the Faculty been carried out as it should have been. I will also consider any application for a variation asking for additional works (hereinafter "AWs") that need to be done in the light of what has been discovered. Those additional works would, in the normal course of events, be paid for by the PCC unless it could be shown that the need for any of them was caused by the application of ZS to the fabric. I would call works outside of the original Faculty that were *only* necessary because of the application of the ZS paint to be Consequential Additional Works ("CAWs") and I am not expecting there will necessarily be any. However, were there to be CAWs, it would follow that Mr. Claydon is responsible for their cost.
- 18.(7) – Who should meet the court costs of this hearing? Mr. Stephen Claydon should meet the full court costs of this hearing. I have found that the breach was his fault. He instructed the unlawful application of ZS.
- 19.(8) - Who should meet the Restoration Works' Costs? Subject to the *caveat* expressed in paragraph 17 about AWs, the person who will meet

the Restoration Works' Costs is Mr. Stephen Claydon. He said, in answer to a question of mine, that he would be prepared to be the supervising architect for the work required. I have considered very carefully whether he should be required, or have the right, to supervise the works himself. However, I have concluded that if the Petitioner's choose not to instruct him to act in this capacity, I could not conclude this to be unreasonable. The following facts may have caused a justifiable breakdown in the relationship between the Petitioners, the PCC and Mr. Claydon.

- a. His failure to do what he told them he would do in order to facilitate a variation of the Faculty;
- b. His failure to inform the PCC that he had not done what he said he would do;
- c. His failure to tell the PCC of the contractor's reservations about the use of ZS paint at the time and
- d. His failure to tell the PCC about this reservation for a long period afterwards: a point emphasized by Mr. Blyth in his questions to Mr. Claydon.

20. It is also the case that the PCC has already instructed a different architect in any event, as I understand matters.

21.(9) – What is the way forward?

- a. It may be that either additional coats of limewash to the four approved will be needed (and Mr Hogg made a suggestion about limewash containing an oil as a potential substitute). The DAC must be consulted about any proposed variation to the existing Faculty and any variation must be approved by the Court.
- b. I made clear at the hearing that I would not make a final order as to timetable without giving the Petitioners (to the original petition of 2014) an opportunity to address the issue and so, accordingly, I direct that the Petitioners, before the end of January 2018, to serve upon the Court, the DAC and Mr Claydon:
 - i. An estimate of the works needed and the costs to remove the ZS and comply with the original Faculty in respect of the application of four coats of limewash to the walls.
 - ii. An estimate of any AWs needed. (AWs are additional works now thought needed, such as additional coats of limewash or the addition of any substance to the limewash to improve the likelihood of it being applied successfully).
 - iii. An application for approval of any AW's now required. If approved, I will grant a variation to the Faculty.
 - iv. An estimate of any CAWs (if any) needed. (CAWs are consequential additional works, that is works needed directly as a result of applying ZS paint to the walls, for instance in the unlikely event it damaged the walls in any way)

- v. An application for approval of any CAW's now required.
 - vi. An undertaking that sufficiently robust testing will take place over a large enough area of whatever it is proposed to apply to the walls as a whole.
 - vii. I would ask the DAC to advise me on these proposals and to consider whether it should provide any oversight of the project.
- c. I direct that the Restoration Order must, however, be carried out within 2018 unless application for a longer period is made and granted. Whatever time is needed, I am satisfied that the works can be completed within this timeframe.
 - d. As I have said, the Restoration Works' Costs themselves will also be borne by Mr. Claydon. Those costs will be limited to the work required to remove the ZS paint and the work that should have been done under the original Faculty (namely the application of the 4 coats of limewash).
 - e. Additional costs (if any) caused by AWs (such as additional coats of limewash or any additions to it and any testing needed of additional coats or additional substances) will be paid for by the PCC unless it could be proved that any CAW's were needed as a direct result of the unlawful application of ZS paint. Given the state of the expert evidence, I consider this to be unlikely.
 - f. Mr. Claydon will have 28 days from the service of the estimate of the works to be paid for by him to challenge any aspect of the calculation in respect of the Restoration Works' Costs he disputes and I shall then make a final Order in respect of the Restoration Works' Costs.
 - g. The parties will bear their own costs (if any) for the hearing, subject to any written request for reconsideration being received within 28 days of receipt of Form 18.
 - h. The Court's hearing costs (including preliminary steps) will be borne by Mr. Stephen Claydon. These costs will be taxed by the Registry within 28 days from this judgment and Mr. Claydon has 28 days after the service of the taxation notice from the Registry to ask me to reconsider any aspect of the calculation, failing which this Order will become final and the costs of the hearing will be payable within a further 28 days thereafter unless any extension of time is sought in writing.
- 22.(10A) - Are there any consequential orders that should be made? General Principles:
- a. This is the first time since I became Chancellor that I have found that a professional person, on the list held by the DAC of approved

architects in the diocese, has deliberately breached a significant term of a Faculty.

- b. It should be obvious to any architect that where a variation to any Faculty is needed, it must be sought before the works are commenced.
- c. Believing that work unauthorised by Faculty can be undertaken anyhow, and that a Confirmatory Faculty will then be granted as a routine matter of no particular importance, is likely to prove a very grave mistake.
- d. Even where the works are carried out in an unauthorized way successfully and a Confirmatory Faculty is subsequently granted (usually because the Court's hands are now tied) the very least that will happen is that, save in the most exceptional cases of emergency, the person committing the breach will be left in no doubt of the Court's displeasure. Where the breach is deliberately caused or facilitated by someone in the position of an architect or contractor, then thought will always be given as to whether that person, firm or company should be remain on any approved list in the diocese.
- e. Where the works are carried out *unsuccessfully* and a Restoration Order is made, then, as well as reputational damage and consideration of removal from any register of approved individuals, firms or companies, there are also likely to be awards against those responsible for it, comprising both costs for the hearing and for compliance with the Restoration Order. These costs may prove to be very heavy indeed.
- f. If any variation of a Faculty is sought, it must be approved by this Court before the works contemplated within the variation commence. It should never be assumed that retrospective consent will necessarily be given after the event by way of Confirmatory Faculty or that, even if it is, this will be in some way "routine" or without consequences.
- g. Professional men and women need to be particularly aware of this requirement. With their reputation and standing comes a high degree of trust. It is their particular responsibility never wilfully to breach a Faculty or facilitate its breach by others.
- h. If there is any perception gaining ground in the diocese that variations to Faculties are optional and that another route is simply to carry out the works and obtain a Confirmatory Faculty retrospectively (and I hope and believe that this is very unlikely) then it is a perception that needs to be altered very quickly.
- i. Although what I am saying in this guidance is directed towards architects because of the nature of the case I heard, *it is just as*

applicable to PCCs and Petitioners. It is both very unwise and unlawful, as well as potentially very costly, to commence works until the Faculty has been sealed or to carry out works outside of, or to a different specification from, the Faculty until a variation has been granted by the Court. Confirmatory Faculties are rare, not always granted, and, save in exceptional circumstances, the necessity for such Faculties is viewed with displeasure by the Court. As in this case, unauthorised works may well end up with a costly Restoration Order requiring them to be undone.

- j. Accordingly, it may assist the DAC to have these general observations circulated.

23.(10B) Are there any consequential orders that should be made? Stephen Claydon specifically:

- a. I have to consider with the utmost anxiety whether Mr Claydon should be removed from any list of approved inspecting architects within this diocese.
- b. In favour of so doing are the facts revealed by this case.
- c. Mr Claydon, at my request, sent me his *Curriculum Vitae* and some supporting attachments which I have read with great care. He has explained the inter-relationship between his rôle as an inspecting architect and a supervising architect. He has also set out his involvement with twenty-five churches in this diocese and the proportion of his working life spent in this field. He has given me his impressive prior history and his high level of qualification, not always demanded by modern regulation. This all combines to confirm a view I had already formed that it would be a loss if the diocese was unable to utilise his services as well as a considerable loss to him personally.
- d. I have examined what I find to be the pressures that he was under at the time. He was keen to avoid budgetary overrun although, in fact, the PCC had a contingency fund of £15,000. There is a dispute as to whether he was aware of this but I will proceed on the basis that it was not in his mind. He was aware that Amber Kenworthy's wedding was due to take place in December 2014 (the church has only one or two weddings a year) and he was concerned to have the scaffolding down and the painting done in time. In fact, I have a witness statement from the bride and oral evidence from churchwardens stating that alternative arrangements had been made if it proved necessary. Again, and although he never enquired, I accept Mr. Claydon's evidence that he did not know of this. He was also moving house and he had a number of other ongoing projects, although I do not give these latter two matters as much importance.

- e. I have concluded, having read what was written and having heard what was said in court, that there was some rigidity of thought in Mr. Claydon's approach. Just as he convinced himself that the ZS paint would be suitable to use; so he told himself that a Confirmatory Faculty would be obtained without difficulty. When things went wrong, he persuaded himself it was Tor Coatings primarily to blame and he has found it difficult to accept that it is actually *his* fault; for, if a variation of the Faculty had been sought, it is unlikely that ZS paint would have been approved, and, if it had been, Mr Claydon would not have been to blame had it subsequently proved unsatisfactory provided he had given the Court all the material facts. He did apologise fully at the hearing and I accept that he accepted a level of blame implicitly in his written responses.
- f. I have concluded that it would be unfair and disproportionate to ask the DAC to consider removing Mr. Claydon from any approved or authorized list taking into account all of those features and, pre-eminently, that this is the first such occasion when he has behaved in the way I find he did in this case.
- g. I am confident that it will be the last time anything like this ever happens when Mr. Claydon is the inspecting or supervising architect and even more confident that he understands the inevitable consequence if I am proved wrong.