

**IN THE CONSISTORY COURT OF THE DIOCESE OF YORK  
PARISH OF DRYPOOL, KINGSTON UPON HULL  
CHURCH OF SAINT COLUMBA**

**IN THE MATTER** of a petition to confirm the renewal and restoration of the 31 feet high x 21 feet wide mural “Christ in Glory” at Saint Columba Church. The Petition is unopposed. However the history of the matter and the issues involved require that I give a considered judgment in this matter. The Petitioners have agreed that the matter should be determined on written representations in accordance with Rule 26 of the Faculty Jurisdiction Rules 2000.

**The Mural**

1. This matter concerns a mural painted by the artists Robert Hendra and Geoffrey Harper in about 1960 on the east wall of this church. I am grateful to the secretary of the DAC who has provided along with a minute of the DAC advice, a history of the church and the mural. He advises that the church was originally built in 1926-29 but was badly damaged in the extensive Second World War bombing of Hull. It was reconstructed in 1958-60 by Sir William Milner and Romilly Craze, who were also responsible for a number of other churches in Hull. As part of that reconstruction the artists Hendra and Harper were commissioned to provide stained glass for the west window and the small north chapel and to cover the entire east wall of the sanctuary with a striking and effective painted mural, 21 feet wide and 31 feet high. He advises that the scale and design of the mural is related to the west window and its iconography is unusual. It shows Christ, surrounded by a luminous vesica, ascending towards the heavenly host, above Saints Peter and Andrew as fishermen – their net full of fish touchingly acts as the reredos of the high altar. The apostle-fishermen stand on what might be the rocky shore of the Sea of Galilee, but are surrounded by the ships, buildings and bustle of the mid-twentieth century port of Hull. The colour scheme moves from predominantly sombre greens and browns at the bottom, towards a less earth-bound radiance of reds, yellows, and near-whites at the top, which emanates from the Holy Spirit and Christ himself. The upper and lower halves are united by the blue of the sky and by the rainbow of the Covenant; symbolically linking heaven and earth by facing mirror-like upwards and downwards.

**The significance of the mural**

2. The advice of the DAC is that this historically interesting wall-painting formed part of an ensemble of related works, including several fine stained glass windows. The church is unlisted and the mural is unlisted. However that does not mean that the mural has no artistic and historical significance. It is clear from the history that I have recounted and knowing something from personal experience of the feelings that the people of Hull had about their city in the 1960s, that this mural has a real significance for Hull and its people, as well as for this church.

**The need for restoration and requests for advice**

3. On the 4<sup>th</sup> or 5<sup>th</sup> July 2000, Mr Derek Hoad, the Inspecting Architect for the church, carried out his quinquennial inspection. At that inspection representatives of the PCC including Mr Richard Liversedge, who not only was then, and is now one of the churchwardens but is also one of the Petitioners in this matter, consulted the architect about the mural which it was noted was “beginning to show signs of age and some of the paint is now coming away from the wall”. The architect advised the parish to consult with the Secretary to the DAC, who was then the Reverend Canon Edwin Newlyn, “with a view to a visit from an appropriate advisor on the DAC”. That same day Mr Liversedge wrote a letter to Canon Newlyn to inform him of that position and to make that request. The letter was sent by email and Canon Newlyn responded on the 5<sup>th</sup> July to say that he was about to go on holiday and that it may therefore be a couple of weeks before anything could be done. On 10<sup>th</sup> February 2001, the parish not having heard any more about the matter from the DAC, Mr Liversedge followed up his earlier letter and repeated the architect’s advice that “someone with professional competence in that specialised area should be involved”.

4. Unfortunately, by that time, Canon Newlyn was unwell and shortly thereafter he retired on the grounds of ill health. Mr Phil Thomas was appointed as his successor from the 1<sup>st</sup> October 2001. Sometime after his appointment, Mr Thomas was contacted by the then incumbent, the Reverend Stephen Walker, who asked him if he would visit the church to discuss a number of issues. Mr Thomas visited the Drypool churches in March and September 2002 and believes that it was on the first of these occasions that he visited St Columba.

5. Mr Thomas has a clear recollection of the visit and of the various matters that he discussed with Mr Walker. They included the mural which they looked at together. Mr Thomas’s recollection is that “we looked at the mural in some detail; assessing the extent of the unstable or flaking paint, looking for any obvious evidence of rising or penetrating damp, discussing possible causes of deterioration (such as unstable or incompatible substrate, humidity levels, surface damage, inadequate external pointing etc.). I expressed the opinion that the mural was certainly an historically interesting work of church art, and was of much greater local artistic significance given the unusual subject matter. I also commented on aspects of the fascinating iconography. Whilst in the church, and afterwards over tea in his study at the neighbouring vicarage, I emphasised the need for great caution with regard to the mural, and counselled that the DAC would expect any application for treatment or repair to be based on the advice of a professional painting conservator. I was too new in my post to be able to recommend any particular local conservators, but I did suggest that my comments should be discussed by the DCC (Mr Walker undertook to do this) and that they should then approach either the Ferens Art Gallery in Hull or the Victoria and Albert Museum in London for the names of appropriately qualified persons. If those enquiries produced no useful result, I offered to pass on the address of a professional muralist who might know of someone suitable. I offered the unequivocal advice that under no circumstances should the parish attempt to solve the problems itself by sealing the surface of the wall. I explained that sealing the surface before establishing the cause of the problems would be likely to make matters worse in the long term. If the issue was one of humidity or of penetrating or rising damp, sealing would merely trap any damaging moisture within the wall. If the issue was an unstable or

incompatible substrate, sealing would merely add another (possibly irreversible) layer to an already unstable surface.”

6. In October 2005 the church was the subject of its next quinquennial survey. The same architect as in 2000, Mr Derek Hoad, conducted the survey. In his report, dated 2<sup>nd</sup> November 2005, he said about the interior of the church at para 5.3.1 “The mural has areas of crazing and peeling paint but does not appear to have deteriorated significantly. Expert advice on repairs should be requested from the DAC.”

### **A new incumbent and a fresh enthusiasm**

7. It was about the same time as that report was received, that the Reverend William Mather was inducted as the Team Rector of the Drypool Team Ministry.

8. Mr Mather is described in a document entitled “A love affair with art” which was submitted to me at one stage, as an artist who has been “mainly self taught while developing careers first in journalism and then as a priest in the Church of England”. I have been provided with his CV as an artist and accept that he clearly has some significant experience in painting; but he plainly has no experience in the specialist discipline of conservation and restoration of paintings.

9. In 2007 a decision was made to do something about the mural. Mr Mather consulted with a Mrs Jennifer Campion Bell in Nottingham. It doesn’t appear, so far as I can see, that she actually visited and inspected the mural on site. She is described as a “Nottingham based professional mural artist”; she was sent some flakes of paint from the mural and advised:

“The flakes look like plain white emulsion that’s come off with a layer of plaster dust on the back. They’re very dry and I think that something like acrylic or oil paint would probably have been more flexible. It would probably be OK to paint over in Unibond (try out a small patch first) then touch up with acrylic paint or emulsion. If it’s all been painted originally on emulsion then it’ll continue to break off unless you fix it.”

10. I am then told that “After further consultation with two specialist interior decorating firms in Hull, both advised ‘Polyvine Protective Decorator’s Varnish’. This was considered better than Unibond. A particular recommendation is that it is said to ‘protect painted walls from water, stains and mild abrasion’.”

11. It is clear that neither Mrs Bell nor the local decorators were asked about the potential underlying problems that Mr Thomas had drawn to the attention of Mr Walker. Equally clearly it seems that neither she nor they considered what might be the cause of the flaking paint.

12. There then developed a great enthusiasm for this project within the church community and scaffolders were approached for quotations. A particularly favourable quotation was obtained and so on the 30<sup>th</sup> July Mr Mather sent an email to the Standing Committee of the DCC stating that Mr Gwinnell and he had that day met with the potential scaffolding contractors and had obtained a quotation for scaffolding

of £300 and asking the DCC to agree to proceed with the proposed timetable that he set out in the email.

13. He then set out his plan of campaign which was:

- “1. Erect a scaffolding.
2. Raise a team of volunteers to clean the mural using rags, warm water and very dilute washing up liquid.
3. Remove areas of flaking paint.
4. Seal the painting with water based Unibond, This will act as a both a varnish to protect the surface and a primer for the areas that need touching up. Volunteers can be used for this.
5. Touching up with artist-quality acrylic paint.
6. If needed varnish with new paint with Unibond mixture.
7. Remove scaffolding, clean up and return chancel furniture.”

14. He went on to state “I would plan to do the touching-up work myself and have taken advice from a professional artist in Nottingham, Jenny Bell, who specialises in large mural paintings. I have sent her photographs and specimens of flaking paint. As most of you are aware I am familiar with the technical side of the art work required and confident I can do a good (word unclear)”

15. Of most concern however he went on to say: “I don’t see any need for consulting further with organisations like English Heritage or the Diocesan Advisory Committee (DAC) as all we are doing is renewing and repairing what is already there.”

16. And so the project got under way. There is no doubt that it generated a great deal of enthusiasm within the church and volunteers worked hard. The experience of working together on this project was undoubtedly good in building a sense of real community and common purpose and giving them a sense of achievement.

17. On the 24<sup>th</sup> August Mr Mather sent out another email which I assume was sent to the Standing Committee. He described how the work was progressing and said that:

“... for the sake of accountability I feel I should keep in you in touch with developments.

This is about the face of Jesus in the mural. In my last email I said that the face of Jesus was in much better condition than much of the rest of the mural. And so it is.

However yesterday afternoon something happened that has led me to modify the appearance of his face to make it less austere and yet both stronger and softer.”

18. He then gives a detailed description of the changes that he had made. He added:

“I am aware that the above are modifications in the process of working on the ‘coal-face’. There is no way that anybody could have seen in advance that this might happen and plan for it or ask permission for it. The work was always intended to be a cleaning up and touching up of what was there. It was not my intention to do any modifications or developments that might suggest changes to the original. I am aware this could prove controversial and some might say it is taking undue licence with the original work.”

19. Other changes were also made. Mr Thomas summarises the changes as follows:

“The adjustment of the balance of colours from the original ethereal yellow-red colouring to something more ‘realistic’ and earthly; the reversal of the colours in the rainbows to create a ‘double’ rainbow rather than a reflected image facing towards heaven and earth; the complete re-working of Christ’s face and hair to bring them closer to ‘a normal Israeli complexion’ – although the original artists may have deliberately intended something less specific and literal and in favour of something more complex and universal.”

20. The work was regarded as a great success within the parish. The outcome was publicised and a photographic record of the process was produced.

21. My understanding of subsequent events is that in the latter part of 2007 the parish were discussing various matters concerning faculty applications with the Archdeacon of the East Riding. One of the outcomes of the discussions was that the parishioners accepted that this work should have been the subject of a petition for a faculty. In order to regularise the position the DCC resolved to petition for a “retrospective faculty” on the 20<sup>th</sup> November 2007. The proposal was submitted to the DAC who discussed it at their February meeting. They were concerned “that a clear and serious breach of the faculty system has occurred – albeit with the most benign intentions – leading to the wholesale alteration and possible loss of a significant work of art in the care of the Church.”. They noted, as I do, that “the incumbent is upset and deeply concerned at what he has done, and has encouraged his parish to do, in a spirit of enthusiastic naivete.”. They went on to decide that the work could hardly be “not recommended” but that members could not in conscience say “recommended” or express “no objection” and so they referred the matter to me.

### **Enquiry as to what happened and why**

22. Since then I have given various directions in order better to inform myself about not only what took place but how and why having started off so well in 2000, the Petitioners failed to seek any appropriate advice and more particularly failed to petition for a faculty when they finally resolved to do something about the state of the mural in 2007.

23. On the 27<sup>th</sup> June 2008 I directed that the Petitioners should answer a number of questions. I set out what I understood to be the history which I rehearsed at paragraphs 1-6 above. I posed a number of questions, of which the first two were

- “1. In relation to the matters raised by the Secretary to the DAC they should inform me what records the DCC kept of their correspondence and other communications with the DAC and its officers in 2000, 2001 and 2002 and whether any reference was made to these communications when the present incumbent raised his proposals, and if not why not, given that it is within my knowledge that some of those involved between 2000 and 2002 are still in leadership in the parish.
2. They should also state how they came to ignore the advice of the architect in the 2005 quinquennial that they should seek expert advice from the DAC.”

24. The Petitioners have filed a statement which does not condescend to any detail on these matters. The germane parts of the statement say:

“The DCC has consulted the church architect Derek Hoad on a number of occasions. It has also consulted with the DAC on many occasions. The latter came up with a suggestion to try the Fine Art Department at Hull University. This was followed up but nothing came of it.” They also say that “Research into how to restore the mural has been a saga for years. Every time the DCC has tried to obtain advice it has been advised to consult somebody else. With hindsight if the DAC had been able to initiate something like a visit from an art expert from the Council for the Care of Churches, this might have been helpful. This never happened. Efforts by the DCC to locate experts has been like trying to find the proverbial needle in a haystack. The DCC feel that there has been no focussed advice from the DAC.”

25. My judgement about all of this is that it appears that prior to the Rev Stephen Walker moving to the Diocese of Carlisle in 2005, there was a desire to take and follow proper advice. The DAC was consulted and when no reply was received the matter was followed up. Furthermore when there was a new DAC Secretary he was specifically asked by the Team Rector about the mural and given very specific advice which he promised to follow up. I have no reason to doubt that the advice he received in 2002 was as recounted by Mr Thomas.

26. What then happened prior to Mr Walker’s departure seems to be lost to the collective memory and no records have been produced of the DCC’s subsequent discussions despite my request at question number 1 above. An earlier letter to me from Mr John Gwinnell on behalf of the DCC (1<sup>st</sup> May 2008) states that “There is some recollection that communication occurred between the Secretary (*to the DAC*) and the previous Rector, Stephen Walker, but unfortunately we have no record of discussions which took place at that time.”

27. In my judgment that suggests that Mr Walker did communicate to the DCC his discussions with Mr Thomas as he promised that he would. For one reason or another no one is now able to recall what they were then told.

28. I am aware that many PCCs resent having to seek advice and make applications for faculties. They regard it as a chore and something that may well lead to them having to incur expenses that they feel they can avoid if allowed to follow

their own course and rely upon what they regard as their own in house expertise and labour. Often they excuse themselves on the basis that what they are proposing to do is only temporary, or that it is reversible or as here that they are only “renewing and repairing what is already there” (see para 15 above). Sadly when there is no proper advice, guidance and setting of boundaries, what begins with the best of intentions can end up by doing significant damage to important buildings, their fabric or their contents. It is apparent from the email of the 24<sup>th</sup> August where Mr Mather says: “There is no way that anybody could have seen in advance that this might happen and plan for it or ask permission for it” that in the back of his mind was always the question of seeking permission. The idea that no one could have seen in advance that once Mr Mather began to alter the face of Jesus is exactly the reason why it is necessary that such works should be carefully thought through and a precise programme or work approved before any work starts.

29. It is not possible to over emphasise how important it is that churches should ensure that they work within the law of the church which is also the law of the land. At the moment churches enjoy an ecclesiastical exemption from various consents that would otherwise have to be obtained from local authority planning authorities. If churches do not respect and use the system that has been put in place which justifies that exemption, then I have no doubt that it will be taken away from us and all permissions will have to be obtained from the secular authorities; and the penalties for failing to do so will be enforced by the secular courts.

### **Council for the Care of Churches**

30. In the course of my enquiries I also sought the advice of the Council for the Care of Churches. I received advice from them in the following terms:

“Although this restoration work seems to have had a positive impact on the parish’s pastoral life, it has serious ethical and technical implications and it is of great concern that the faculty procedures have not been followed and that a conservation approach was not considered. The artists Robert Hendra and Geoffrey Harper, have some experience with ecclesiastical work and it is regrettable that an original artwork has been altered in this way.

Regarding the technical implications of the work carried out the Council would comment as follows:

- \* Sugar soap is an alkaline mixture of sodium carbonate, sodium silicate and sodium phosphate, where the silicate acts as an abrasive compound. The parish used a very diluted solution, which is encouraging, but there is no indication if the surface was rinsed afterwards which is likely to lead to residues being left on the surface risking further deteriorating of the paint layers.
- \* The acrylic varnish is not a conservation-grade material. Used diluted at 10% it will act as both coating and adhesive which will likely make any attempt to remove it, even if soluble, damaging to the original paint layers.

- \* There was no assessment of the causes of deterioration to the wall painting so it is likely that any ongoing problems will continue to affect the artwork.
- \* Regarding the reversibility of the works carried out, although this may be possible, it will be a lengthy and difficult task with risk of further damaging the original paint layers.”

31. I find it difficult to understand why Mr Gwinnell should say that “with hindsight, if the DAC had been able to initiate something like a visit from an art expert from the Council for the Care of Churches, this might have been helpful”, as that advice would always have been available. Furthermore, it is not as if this is some small church distant from and unconnected to the wider church. It is within my knowledge that this church is well connected into the Diocese, and the wider church with its associated committees and councils.

### **The choice facing me**

32. I have to decide whether in exercise of my discretion I should grant a confirmatory faculty or make some other order.

33. Having reviewed the history of this matter I have considerable concerns about:

- \* Firstly the fact that although the leadership in this parish were clearly aware of the need to seek the advice of the DAC and to obtain a faculty before engaging on significant works of conservation between 2000 and 2005, they conceived and executed these works in 2007 without taking either of those steps.
- \* Secondly the original artistic work has been altered to a significant degree, which alteration has clearly revised the iconography and artistic integrity of the original work to suit the current tastes of the parish, rather than attempting to understand and respect the intentions of the original work, which now effectively no longer exists.
- \* Thirdly the work of sealing the mural has in all likelihood rendered irreversible this alteration and may also have had an impact on the mural which will lead to further deterioration of the painting under the varnish.

### **Conclusion**

34. I do of course accept the apology that has been made by the incumbent and the DCC in relation to what has taken place. I believe that they were carried away by their enthusiasm and that those who carried a memory of what had taken place in 2002 didn't want to be seen as 'pouring cold water' on this proposal to restore and renew the mural and so they kept quiet and went along with what was taking place.



35. In the end and in reality my hands are tied. The work cannot be put back to its former state and we must all live with the consequences.

36. However I hope that not only the Petitioners in this matter but that other incumbents and churchwardens will realise from history of this matter why it is necessary in all cases where they wish to carry out any significant work to their church they should seek advice and where necessary a faculty.

37. In the event I direct that a confirmatory faculty issue in relation to this matter.

38. As is usual where a faculty is confirmatory in nature, it involves more work that would usually be involved in a straightforward unopposed matter and the costs are greater than otherwise they would be. Furthermore, the DBF pays the statutory fees on the basis that they do so to encourage the proper and timely use of the faculty procedure, but where the procedure has not been used in the proper and timely manner it is not reasonable that the DBF should pick up the bill. For those reasons and in the circumstances of this matter the Petitioners will have to pay the Court and Registry fees for this Petition, which will be taxed by me in due course.

*Peter Collier*

Canon Peter Collier QC  
Chancellor of the Diocese of York

6<sup>th</sup> September 2008