

Neutral Citation Number: [2025] ECC S&N 1

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWELL AND NOTTINGHAM

Before: the Chancellor

IN THE MATTER OF TUXFORD WAR MEMORIAL

and

IN THE MATTER OF THE PETITION OF EMMA GRIFFIN

JUDGMENT

Introduction

1. This petition seeks a faculty to undertake works to the war memorial in the churchyard of St Nicholas Church Tuxford. The petitioner is not the incumbent, nor the PCC, but Mrs Emma Griffin. The proposed work is summarised as ‘clean the war memorial and have the lettering repainted so its readable’ [sic].

2. I pointed out when I first saw it that the petition posed a considerable number of difficulties. In due course various further material has been uploaded, and I am aware of material that has not been uploaded, as I shall explain below. In short, it does not appear that those concerned have yet provided all the material that would enable the petition to be determined fully. On the other hand, the Registry has received numerous requests for swift determination of it, from the petitioner and from others, in particular Mr Norman Birkett, who is interested in the memorial but is not, of course, a party to these proceedings. It seems best to try and do what I can, but the result may be rather constrained. It is very unfortunate that a benevolent proposal to undertake minor work on a memorial seen as a community asset raises such difficulties. The petitioner and others are obviously frustrated. It looks as though they may have begun in complete ignorance of the legal framework, and subsequently received far from helpful advice and assurances, perhaps leading to unrealistic expectations.

The War Memorial

3. The war memorial, in remembrance of the men of Tuxford lost in the First World War, was unveiled on 27 November 1921 by Mr D Walpole of the British Legion, and dedicated by the Archdeacon of Newark, the Ven Egbert Hacking. It was designed and made by HJ Tuttell of Lincoln and cost £163. Old photographs show it topped by an elegant tapered shaft and a cross, probably of limestone. This upper element fell in a storm in 1990, and in 1999, a new cross was added, shorter and more chunky than what it replaced, and in different material.

4. The memorial now consists of three contrasting tiers. Three substantial square limestone steps support a square base that turns octagonal as it rises. On the four oblique sides there are carved shields with raised lettering: PRO DEO, PRO RECTO, PRO PATRIA and PRO REGE respectively; and the top is finished with a roll moulding.

5. The next, and smallest, stage is a tapering octagonal plinth, polished stone originally described as ‘green granite’, again with a roll moulding around the top. Its sides begin with a short vertical part at the bottom, then taper inwards towards the top. The inscriptions are almost all on the tapering part. On the front, principally on the south face but overflowing onto the two adjacent

faces, is IN THANKSGIVING TO/ ALMIGHTY GOD/ FOR/ VICTORY/ AND IN GRATEFUL MEMORY OF THE/ MEN OF TUXFORD/ WHO GAVE THEIR LIVES FOR THEIR COUNTRY/ AND THE WORLD'S FREEDOM IN THE/ GREAT WAR, 1914 - 1918./ + /GRANT THEM THY PEACE, LORD. On the vertical face below is ERECTED/ BY THE RESIDENTS OF/ TUXFORD. On the east and west sloping faces are 16 names of those who died in the First World War. When the memorial was originally erected the other faces were blank except for the mason's signature ('TUTTELL LINCOLN') on the vertical part of the north side. After the Second World War the names of five who died in that conflict were added on the sloping part of the north side in six lines under the heading '1939-1945'. There is a further name on the northwest face, without any heading: there would have been room to put it on the north face if that had been thought appropriate, so it may be that the person so commemorated died in some later conflict. The northeast face is blank.

6. The top part, rather less than half of the total height, consists of the cross added in 1999. It is also polished granite but different from the plinth below it, being noticeably blacker. It has sharp arisses, and a machine-engraved narrower cross centring on a rose carved in recess, all standing on a small octagonal step.

7. The memorial is listed grade II in its own right (the church is listed grade I). The listing dates from December 2014, so takes into account the work of 1999.

8. I have compiled the description above from the listing description, together with the description on the War Memorials Trust website, assisted by excellent photographs, mostly by Mr Birkett, uploaded to the latter. The description is perhaps fuller than it needed to be, because as I worked on it I began to appreciate that both sources had a number of mistakes. The listing description calls the inscribed part hexagonal in one place and as an 'octagonal double plinth' elsewhere. The transcription of the inscription in both places omits the cross; and the War Memorials Trust description omits mention of the fact that a substantial part of the memorial is limestone, not granite. Neither notes that one name is unassociated with either of the World Wars, but both the listing description and the entry on the Imperial War Museum's website say that there are seven names from the Second World War, the Imperial War Museum describing that number as 'exact'. It appears that both have been misled by the five names below the dates of that conflict being spread over six lines, and have added the separate name to the total. (Mr Birkett, as might be expected, refers correctly to five names from the Second World War.)

9. Before turning to the work proposed in the petition, I must say something about the condition of the memorial. It rests on a concrete slab, which has a number of cracks, now beginning to be colonised by vegetation. It is not said that it is unsafe. There is a normal and apparently healthy growth of lichen on the limestone. No doubt granite was chosen for the inscribed element partly because it is less prone to such growth. The older inscriptions appear to have been filled with some sort of mastic or other compound in a contrasting light colour. It is beginning to break up. (It is possible that the substance is paint, but if so it is very thick indeed, wholly filling the carved letters, and now breaking off in chunks, not fading or wearing, and not leaving a coloured residue on the stone.) The newer inscriptions are simply carved, and not painted or filled. All the inscriptions are readily legible, as indicated in the photographs to which I have referred, although one of the photographs attached to the petition is taken in such a way as to make the inscription illegible. The Imperial War Museum notes the inscriptions as 'legible' and the condition as 'good', as at 22 September 2018. The War Memorials Trust assessed the condition as 'good' on 6 January 2015, but that is now supplemented by Mr Birkett's assessment, also uploaded there. He describes the condition on 14 May 2023 as 'poor',

although that appears to be only because it ‘Would benefit from a good clean and repainting of the lettering, also has cracks in the concrete base’.

The Proposal

10. I have set out above the summary description of the work proposed. It obviously bears a close similarity to Mr Birkett’s entry on the War Memorials Trust website. The details can be gathered only from the quotation from Retford Memorials Limited, which was the basis upon which the petition was made. The work proposed is as follows:

‘Our mason proposes:

To steam clean the limestone at low pressure, this will enhance the limestone but will not look like new again.

He would not point up the cracks in the cement as you would still get hairline cracks, and use mastic instead, as this is more weatherproof.

Recommend repainting the inscriptions in silver/grey enamel as this has proved to be the hardest wearing. He can repaint in white enamel if preferred as the War Memorial is grade 2 listed.’

11. That work is the subject of this petition: the petitioner has never amended what she seeks to do.

12. The Diocesan Advisory Committee records that it considered the petition, gave its advice that it did not object to the work being approved by the court. Thus what it approved, was the following, as set out in the petition and the public notice: ‘to steam clean the limestone at low pressure; to use weatherproof mastic for any cracks in the stone [sic: not cement]; repaint any inscriptions in silver/grey enamel’, read in conjunction with the quotation set out above. The Committee did not express any reservations, or any concern about contradictions or ambiguities. It did not raise the question of what stone repairs were proposed; it did not point out that certainly some of the inscriptions had never previously been painted. It did not recommend that any body be consulted in the light of the fact that the memorial is listed; it merely recited the irrelevant fact that the church itself is grade I listed. It is apparent from its advice and consideration that it rejected the alternative of white enamel paint, although Mr Birkett stated in his helpful background note that the original colour appeared to have been white, so that silver/grey paint would be an innovation.

13. The original proposal, therefore, had the approval of the Committee. The next step was to present the matter to the court for decision or request for further information.

The Legal Background

14. It is convenient at this stage to set out in summary the reasons why this petition has been so difficult to resolve. The petitioner’s intention to undertake the proposed work raises separate issues in three wholly separate fields of law. First, the memorial is governed like any other property by the general law concerning ownership and prohibiting interference with ownership and the rights of ownership, carrying civil and criminal sanctions. Secondly, as the memorial is listed, the law relating to work on listed buildings applies to it. Thirdly, as the memorial is on consecrated land, in the churchyard, it is governed by ecclesiastical law, in particular the faculty jurisdiction. That is the area with which I am primarily concerned in determining the petition, and the petition has to comply with the procedural rules applicable, but ecclesiastical law is part of the law of the realm and the Court has to have regard to the other relevant aspects of that law.

15. First, then, ownership. The general position is that nobody is entitled to interfere with property that they do not own, except with the consent of the owner. The petitioner does not own the memorial, and does not say that she has the consent of the owner. Even if a faculty for the work were to be granted, if she undertook the work without the consent of the owner she would be at risk of a claim for damages, or possibly a charge of criminal damage. These principles apply even if the property is considered a community or cultural asset. If an important listed building is falling into disrepair, even the local authority cannot simply move in and undertake works on it, except for emergency work to stave off danger. The authority can issue notices to compel the owner to do the work; or the authority can by purchase, compulsory or otherwise, become the owner itself. But it cannot simply take it upon itself to interfere with the rights of the owner as owner.

16. The ownership of monuments and memorials is often particularly difficult to ascertain. That is because, unlike most things attached to a building or a piece of land, they do not thereupon fall into the same ownership as the building or land. A memorial remains the property of the person or persons who erected it while they are alive, and after their death the memorial belongs to the heirs at law of the person (or persons) commemorated. If a person who has no claim to the ownership of a monument intends to do work on it, the starting-point is to discover the owner, if that can be done. Although the law is of ancient origin, it applies today because s 66(5) of the Ecclesiastical Jurisdiction and Care of Churches Measure 2018 so provides. This is not obscure or antique law. Section 66 has further provisions in relation to the ecclesiastical jurisdiction, to which I shall refer further, but the identification of the owner is the point at present. The petitioner certainly had wholly incorrect advice from Michael Tagg, the Conservation Manager at the Local Planning Authority, Bassetlaw District Council, that 'the PCC is definitely the owner as it sits on church land'. That was wrong. The PCC might have been the owner, but not because of where the memorial 'sits'. If the PCC is the owner, that would have to be because the PCC is legal successor of a body that erected it which, because of such succession, has never died, so that the ownership has never passed to the heirs of those commemorated.

17. Although I know that the petitioner, and Mr Birkett, were in regular communication with its Secretary, I do not know what advice on this topic was given to the petitioner by the Diocesan Advisory Committee, which had the statutory task of advising her on relevant matters. Although the officer of the Local Planning Authority may be forgiven for his lack of knowledge of the special rules relating to the ownership of memorials (though without knowledge he should not of course have made the dogmatic statement he did), this is a matter wholly within the expertise of the Diocesan Advisory Committee and its Secretary. They will have been aware not only of the provisions of the 2018 Measure, which sets out their own tasks and responsibilities, but of other cases in which precisely the same problem has arisen. They will have known the constraints on the grant of a faculty for work on a monument without the consent of the owner, and therefore also that this petition could not be granted until the question of ownership was appropriately dealt with. They will have been able to draw attention to publicly-available sources of advice on the subject, in particular the authoritative legal opinions from the Church of England entitled 'Churchyards: Ownership of Memorials and Trees' and 'Churchyards: War Memorials' (both readily available online) and the War Memorials Trust advice on ownership, also available online.

18. Despite all this, at the time the petition was first put before me, accompanied by the Diocesan Advisory Committee's endorsement, the question of ownership had not been investigated at all.

19. It was simply a request by an individual to make alterations to property that she did not own, and had made no investigations into who did own it. I explore the consequences of this below.

20. The second area of law is that relating to listed buildings. The petitioner and Mr Birkett, as well as the proposed contractor, were all well aware of the listed status of the memorial. I have already noted that this does not form any element of the Diocesan Advisory Committee's advice as given. It did not need to do so. I must assume that the Committee appreciated that, albeit in a minor way, both the mastic and the paint involved making changes to the memorial, and that Rule 4.4(1) therefore applied. It must have considered that the documents accompanying the petition, although not entitled as statements of significance and need, met the requirements of that paragraph, and it was in my judgment right to do so. The proposed changes were not likely to affect the character of the memorial as a building of special architectural or historic interest, so the Committee was not itself obliged to consult the Local Planning Authority. But it is within my experience that in notifying its advice the Committee indicates where secular consent is required for projected work if it has not already been obtained. No such indication was given in this case. The question of Listed Building Consent to the present proposals is examined further below.

21. So far as the ecclesiastical jurisdiction is concerned, a few additional points need to be made. The process of applying to the Court and obtaining, by way a judgment of the Court, a faculty, or ecclesiastical permission to undertake the work proposed is not a routine process. It requires there to be a petition by a person with sufficient interest in the matter, and the procedural rules must be followed. The question whether the petition be granted in whole or in part is a matter subject to the discretion of the Chancellor, exercised according to the usual principles of judicial discretion, taking account of all the material available to the Court, one (but only one) element of which is the advice of the Diocesan Advisory Committee. The Chancellor also must act within the constraints of the law. This is the point at which ownership of the memorial again requires comment. As well as defining the 'owner' of a monument in subsection (5), and defining 'monument' in subsection (4) as including 'a tomb, gravestone or other memorial', the section has operative provisions relating to the grant of faculties in subsections (1) and (3):

66(1) The consistory court of a diocese may grant a faculty for the moving, demolition, alteration or carrying out of other work to a monument erected in or on, or on the curtilage of, a church or other consecrated building or on consecrated ground, even if the owner of the monument –

(a) withholds consent to the faculty, or

(b) cannot be found after reasonable efforts to find him or her have been made.

(3) If the court is satisfied that the matter is of such urgency that it would not be reasonable to require the petitioner to seek the consent of the owner of the monument or to take the steps referred to in subsection (1)(b), it may grant the faculty (even though the consent has not been obtained and those steps have not been taken).

22. The consent of an identified owner (or a petition by the owner) is the normal position. The absolutely clear implication of subsection (1), especially when read with subsection (3) which provides an exception to it in certain circumstances, is that the court does not have jurisdiction to grant a faculty in the absence of the owner's consent unless either (a) or (b) applies. Subsection (a) again requires an owner to be identified: 'withholds consent' is not the same as 'has not given consent'. Subsection (b) requires reasonable efforts to have been made. If reasonable efforts have not been made and the owner is unknown, there can be no faculty unless the matter is of urgency within the provisions of subsection (3). That subsection is intended to cover cases

where there is a risk of danger if the work is not done promptly. For the avoidance of doubt, I would say that it clearly does not cover a situation where the petitioner has been preparing a case for a long time without giving any attention to the issue of ownership, but then wants to proceed with the work straightaway.

23. I must also make it clear that the granting of a faculty, even for matters within the faculty jurisdiction, does not override other provisions of the law. The law relating to the rights of ownership and the law relating to listed buildings continues to apply. If listed building consent is required, it is still required if there is a faculty for the work. If the work constitutes a trespass, or criminal damage, it will do so even if there is a faculty.

24. It may be asked what is the purpose of the provisions of s 66 if that is so. The reasons are twofold. First, in a proper case a petitioner may feel justified in assuming that nobody will object to the work as an interference with their property rights – because the work is indisputably beneficial, or because when undertaken by the petitioner it saves the owner having to undertake it, or because the owner cannot be determined and so nobody could establish a right of ownership. In those cases, where the memorial is subject to the faculty jurisdiction, no faculty could be granted, and so the work could not take place, without provisions such as those in s 66. Secondly, and on the other hand, the court is not to be seen as granting ecclesiastical permissions without regard to the rights of others, and should not by granting a faculty appear to give permission to petitioners to act without regard to the rights of others. Therefore the circumstances in which a faculty may permit work to a memorial whose owner is said not to be ascertainable are restricted to those where there has been a genuine, but unsuccessful, attempt to discover the owner. (The situation is of course different where an identifiable owner withholds consent. Here the purpose of the provision is that the court may, by granting the faculty, indicate to the owner and to the public that there is no ecclesiastical objection to the work.)

The Progress of These Proceedings

25. With that background in place, the next matter to deal with is the progress of this petition. The petition was lodged on 4 March 2024. The petitioner sought its speedy determination, apparently with a view to the work's completion by June last year. She subsequently wrote to the Secretary of the Diocesan Advisory Committee asking him to try to get the matter 'rubberstamped', a wholly inappropriate way of dealing with the process of the Court, to which she is a party, and which can make decisions only according to the law, whether or not any party is aware of the relevant legal rules. When it was first submitted to the court it was immediately apparent that this petition posed difficulties. Because the petitioner is not the owner, and did not have the consent of the owner of the monument, and had made no efforts to ascertain the owner, no faculty could be granted. In addition there were concerns about her own status, and about the nature of the work proposed, given the vagueness of the proposal and the inconsistencies within it, and the mismatch of the proposal and the slight information about listed building consent.

26. Courts determine cases and applications: they do not advise parties on the way to succeed in their litigation. Before making its decision, a court has to be careful not to express a concluded view on a partial case. The preparation of the case for the court is the role of the parties who make the application, assisted by such advice as they take.

27. One possibility at that early stage would have been simply to refuse the petition on the grounds that the requirements of s 66 were not met and there could therefore be a faculty only if the owner's consent was in evidence. That would have been an entirely lawful and proper response, and would have drawn the petitioner's attention to at least one defect in the material put forward, but I did not think it would be very helpful. Another possibility would have been to issue directions. That would have incurred a statutory cost to the petitioner, and because there were so many issues it might not have been possible to draft directions effectively and comprehensively. What I did was to respond by pointing out some of the problems, thus allowing the petitioner to fill the gaps by uploading more material as it became available to her, in the hope that in due course there would be a petition that could be granted. Although that appeared to be the most beneficial way of taking the matter forward, one consequence is that the time spent in preparation of the case, which ought to have preceded its submission to the Court, has passed while the case has been before the Court. If the petitioner had the uncontroversial advice she should have had, and had taken it, the Court would have been able to determine the petition quickly. I make this point because there has been criticism of the time that has passed since the petition came before the Court, without any regard to the fact that that time has been occupied in presenting the case, not deciding it, and indeed, as I shall point out below, the task of presentation, the petitioner's task, is still not complete – although a great deal of progress has been made. The Court risks reputational damage by trying to be constructive.

Ownership of the War Memorial

28. Mr Birkett has again done sterling work in the frustrating task of establishing that information is not available. It appears that the cost of the memorial was funded by individual donations and subscriptions, raised on various occasions up to and including the dedication service on 27 November 1921, after which there was still a small deficit. There must have been some sort of organising committee, to collect the money and place the order with the stonemason, but no records have come to light, and there is no reason to think that it had any corporate or continuing existence. In particular, the sources Mr Birkett has uncovered contain no suggestion that the memorial was the project either of the church community or of the local authority. Further, no instrument transferring title to any such body has been discovered. The only potentially relevant material that has come to light consists of words in the Archdeacon of Southwell's address at the dedication service, reported as follows in the *Retford, Gainsborough and Worksop Times*, on 2 December 1921:

'[H]e begged the officials of the Church to see that the memorial, which bore the names of those who had passed to their rest, was kept in perfect order, and that the names never became obliterated. It was a charge that the Church must undertake that the names of those who had given their lives must be hallowed for evermore.'

29. Those words perhaps sought to impose a moral duty on the church authorities, but they were of course insufficient to vest the memorial in church ownership. In any event, the memorial was not the Archdeacon's to give away.

30. It seems to me that by Mr Birkett's research the petitioner has done what s 66 makes necessary. I am satisfied that reasonable efforts to find the owner of the monument have been made, and that despite those efforts the owner cannot be found. The Court therefore now does have jurisdiction to grant the faculty.

The Standing of the Petitioner

31. The grant of a faculty depends on proper process, however, and that raises another issue. The petition is, as I have said, not made by the incumbent and the PCC. It is not made by any official body. It is not made by the owner of the memorial. It is made by the petitioner, who, although she is a district councillor and has the support of the Council, acts personally in these proceedings.

32. There are limits on the rights of private individuals to seek a faculty. The most common examples of private faculty proceedings are where an individual seeks to reserve a burial space, or erect a monument. But the general rule is that a suit for a faculty can be brought by an individual only if he or she has what is called 'a personal interest' in it. 'It is not the law that anyone can confer upon himself a sufficient interest to be a litigant in a consistory court merely by deciding that he wants to do something to a church or churchyard in the diocese' (*Re St Luke's Chelsea* [1976] P 295, 305).

33. The question of standing (or locus standi) to bring proceedings to assert a public right or remedy a public wrong has been the subject of considerable development in secular public law, and it is sometimes suggested that the ecclesiastical courts should follow the same principles. It is true that many of the ecclesiastical authorities are content to consider that a person resident in the parish does have sufficient personal interest, in any event to be a party opponent in faculty proceedings. Nevertheless, the role of a petitioner is a particular one, and the considerations are different from those in public law proceedings in the secular courts.

34. Not only is the petitioner responsible for all the court's fees, there being no general rule in the ecclesiastical courts that a successful petitioner does not have to pay them, but the court's procedure, prescribed by statute, imposes further duties on a successful petitioner, going well beyond the position of a successful claimant in public law who obtains an order quashing an unlawful decision or even a mandatory order against a public authority. By rule 7.4, the faculty, if granted, must (subject to any direction by the Chancellor) be in the form prescribed, which is appended to the Rules, and gives authority to the petitioner (not to anybody else) to undertake the works. The faculty must be sent to the petitioner: nobody else is required to be given it by the court. Further, again subject to any direction by the Chancellor, the petitioner is to be sent the form for certifying practical completion of the authorised works. No directions have been sought in this case, and it follows that the faculty, if granted, will authorise the petitioner to carry out the works, will require her to ensure that any contractor is supplied with a copy of the faculty before work commences, and will require her to provide sufficient supervision to ensure that the work is carried out only in accordance with the faculty and at the end to certify that it has been.

35. In these circumstances I was anxious to ensure that the petitioner was fully aware of the responsibilities, practical and legal as well as financial, that she had assumed. The Registrar has had an entirely satisfactory response to the enquiries made. Further, the PCC, although unwilling to initiate the process for restoration of the memorial, have indicated that they have no objection to the matter being promoted by the petitioner; and there is a level of support from the secular authorities in that all the costs are said to be going to be covered by Tuxford Community Events (although the petitioner has expressly accepted that she takes 'full responsibility').

36. In these circumstances, and bearing in mind as I do, that in the absence of any action by either the PCC or the District Council itself it is difficult to see that the memorial could be restored, I

conclude that the petitioner has sufficient standing to bring this petition in her personal capacity.

The Works

37. The next question is what work it would be right to authorise. I have referred above to difficulties in the interpretation of the descriptive part of the petition. It is apparently proposed under the head of 'repainting' to paint carving that has never been painted before; there is to be allowed to be a change of the colour of the paint; there is a suggestion that the work is to remedy a problem that may not exist (illegibility of the names), and as well as mastic mending of the cracks in the concrete foundation, there is a reference to mastic being used on the stone. As I have also mentioned above, no reservations or conditions were suggested by the Diocesan Advisory Committee, which also did not seek any clarification of what was actually intended and why. In these circumstances I suggested that expert advice should be sought. Much the most detailed and informed of the responses is that from the War Memorials Trust, which has specialist expertise in the area of war memorials. That advice is as follows:

'[T]he Trust would not consider the memorial is in need of cleaning as the deposits are not harmful or obscuring the lettering. However, this decision ultimately lies with the custodian. If they are minded to clean then the least aggressive method should be used. This would normally be hand cleaning using water and soft natural bristle brushes, where this is not sufficient consideration can be given to steam cleaning by an appropriately experienced contractor. With regards to the painting of the lettering we would normally recommend this is undertaken on a like-for-like basis.

In relation to the cracking of the concrete base this does not detract from the interpretation of the war memorial. If it is felt that this needs to be addressed then we would caution against the use of mastic as it has different properties and appearance to the concrete.'

38. As I read them, none of the other responses contains anything to suggest that the War Memorials Trust's advice is bad advice.

39. Indeed it appears that the Diocesan Advisory Committee has now decided to adopt it. No information on this has yet been uploaded by its secretary, but he has emailed the Registrar (who passed on to me) the statement that

'we once more discussed the works being proposed. The committee felt again that this was such a light touch to fairly minimal work that they had no objection to it proceeding, *with due regard to the comments from the War Memorials Trust*' [my emphasis].

40. I propose to follow this advice in preference to the more general and less informed advice available previously. If the Tuxford war memorial has a 'custodian', it is either the PCC or the district councillor, neither of which has made any decision about cleaning: so the decision referred to will need to be made according to the court's direction.

41. No investigation has yet been made into what cleaning is necessary, what cleaning can be undertaken without damaging the memorial, and what level of cleaning is desirable. The only information given by the proposed contractor is that the work proposed will 'enhance' the limestone but not make it look like new. The monument is over a hundred years old. The aim of cleaning is to remove dirt, not the natural consequences or signs of aging. Algae (if present) might well be removed, but lichens should be left undisturbed. It seems to me that a start

should be made with water, and only if that is not proving sufficient should low pressure steam cleaning commence. The decision as to whether that stage has been reached is to be made by the Diocesan Advisory Committee's expert on stone conservation, Mr William Young. In any event, no abrasives or detergents are to be used. Any steam cleaning is to be restricted to the limestone part of the memorial.

42. Mastic is not to be used on the concrete. If the weeds growing in the cracks are unsightly, the remedy is to deal with the weeds. Spot repairing of those cracks presently visible is in any event unlikely to provide any permanent solution: when one crack is repaired, another will soon appear.

43. The question of paint is more difficult. The rule must be that painting is to be undertaken if at all only on a like for like basis. Those who had the carving done in 1921 and later had personal memories of the war dead and their colleagues. They made decisions about how they should be commemorated. There is no good reason why we, who have no such memories, should override their choices.

44. Therefore, no colour is to be added to the inscriptions that have not been previously coloured, that is to say the inscriptions that postdate the erection of the monument. Any colouring added to remedy the breaking-up of the original colouration of the inscriptions must be carefully colour-matched to what survives. The substance used must be one that behaves as the original does, that is to say that it is not a paint that adheres for ever to the stone in a thin layer, but a compound that partially fills the carving and (when it ceases to do so) comes away cleanly, leaving the stone bare again.

Listed Building Consent

45. The final question relates to listed building consent. Two emails from Michael Tagg have been uploaded. The first, dated 31 July 2023, says that

'Any works which affect the structure's special interest, such as replacement or recarving, would require Listed Building Consent from BDC. There is no fee for this, but it is a criminal offence to carry out such works without approval.

If you just mean a clean, then this will not need approval from us, but the method will need to be of a non-invasive nature such as DOFF or other steam cleaning. A standard shot-blasting wouldn't be supported as that would damage the face of the stone.'

46. There is a disclaimer:

'You will appreciate that the above comments are made at officer level only and do not prejudice any decision taken at a later date by the Council.'

47. The other is dated 9 December 2024. It gives the same opinion, without the disclaimer.

48. Mr Tagg makes no mention of any other element of the proposed work, so it is far from clear whether there has in this context been any consideration of the proposals to add paint to the memorial. There will need to be, and (assuming that listed building consent is not needed) there will need to be a final statement of that, in writing for the protection of the petitioner. If listed building consent is needed, it must be obtained before work starts, and the work must comply with the consent.

Conclusion

49. A faculty may pass the seal permitting the petitioner to undertake the following works: (1) Water cleaning and steam cleaning of the limestone part of the monument; (2) Like for like replacement of missing colour to the 1921 inscriptions. The works will be subject to the following conditions: (1) No steam cleaning is to be undertaken unless and until the conservation adviser to the Diocesan Advisory Committee has considered the results of water cleaning and advised in writing that gentle steam cleaning is desirable; (2) Any replacement of missing colour is to be matched to the existing colouring both in hue and in the characteristics of the material used; (3) No work is to commence until the Local Planning Authority has definitively advised in writing that Listed Building Consent is not required.

C M G Ockelton MA BD
Chancellor
13 March 2025