

In the Diocese of York

In the Consistory Court

The Parish of Kingston upon Hull, Holy Trinity

The Church of the Most Holy and Undivided Trinity

1. By a petition lodged in the Registry on the 1st June 2015 the Petitioners, the Reverend Canon Neal Barnes, vicar, and David Allum and Andrew Bassett-Scott, churchwardens, seek a faculty for a major re-ordering and up-grading of the churchyard to the north, south and west of the nave, including:

- (1) lifting and recovering (where possible) the existing ledger stones and other paving in the churchyard,
- (2) removing the existing churchyard wall and gates,
- (3) felling the existing trees,
- (4) introducing new foul and surface water drainage systems, and
- (5) introducing new car parking, paving, seating and decorative features together with associated minor works.

2. The details of those proposals are contained in the Report on the Engineering Aspects of the Trees to Holy Trinity Churchyard and Associated Issues by Messrs Alan Wood & Partners dated January 2015, the Heritage Statement by Messrs Woodhall Planning & Conservation dated February 2015, the Design Principles Paper by Messrs Re-form Landscape Architecture dated April 2015 and the various associated drawings, the Options Appraisal revision A document dated May 2015 and associated drawings and the various drawings by Messrs Bauman Lyons.

3. The proposal was considered by the DAC at its meeting in May when the matter was discussed at great length. The committee considered the responses of the various amenity societies to the proposal and also the support of the local authority who had granted planning permission for the proposed works.

4. The amenity society responses that had been provided at that point in time were in response not only to the proposal in relation to the wall but also to other proposals, not currently before me.

5. In relation to the wall the **Victorian Society** had said:

“What makes the wall particularly notable is that, currently, it fully encircles Holy Trinity church, giving a dignified setting to the building and powerfully evoking a sense of ‘God’s acre.’ The wall gives coherence and shelter to the open space at the west end, which if thrown open to the wider square in the manner proposed could easily become windswept

and unfocussed. The loss of the railings from the walls is, in heritage terms, a pity, but their absence does not substantially diminish either the significance or the attractiveness of the the walls, and in any case they could be restored at some future time with relative ease. Attractive gates remain at the seven gateways to the churchyard. The churchyard wall speaks of Hull's nineteenth century prosperity and civic pride. In seeking to express its own civic pride, twenty-first century Hull should celebrate and build upon this inheritance rather than diminishing and marginalising it."

They went on to say "There is very little evident justification for the demolition of a substantial proportion of the nineteenth century churchyard wall ... The churchyard wall should be retained and we would **object very strongly** (*their emphasis*) to its demolition."

5. **English Heritage** (as it was then known) had responded as follows:

"The churchyard wall is a late C19 replacement of an earlier C19 wall and forms part of the Grade I listing. The wall contributes to the significance of the church by virtue of its association with the church, its Victorian remodelling and how it illustrates the reduction in the size of the churchyard at that date. It has moderate townscape value and contributes to the setting of the church.

The proposal to demolish the wall will unlock the potential for public benefits resulting from the unification of the space at the west end of eh church and allowing it to be used for a range of outdoor events and outdoor worship.

The removal of the wall will have a harmful impact upon the significance of the building. The proposed mitigation measure, to mark the line of the wall and the gate posts in the paving design in water cut slabs, (*not a part of the revised proposals*) will mitigate the loss to a degree. However, it is our view that the overall enhancements resulting from the landscaping works will achieve public benefits that outweigh this loss."

For that reason, English Heritage wanted an assurance that the whole scheme would be going ahead before the wall was permitted to be demolished.

6. The DAC was not unanimous in its conclusion but it voted to recommend the proposal subject to a large number of provisos or conditions which were as follows:

- (i) All the churchyard memorials must be carefully recorded and plotted. Those stones which were broken and largely illegible should be disposed of. Those which were broken or fragmentary but still legible should be stored, perhaps in the crypt. Those which were intact or largely intact should be displayed appropriately, preferably outside, but inside the church if appropriate.
- (ii) The Inspecting Architect, Mr Andrew Boyce, should be asked to report on a suitable location and a conservation strategy for those stones to be retained.
- (iii) The stretch of churchyard wall on the north side from the closest point to north-west corner of the church to the first gate-pier to the west should be retained.

- (iv) The line of the original wall, where it has been removed, must be clearly marked in a material to be agreed, and more emphatically than the present proposals.
- (v) Consideration must be given to the re-use of the gates and gate-piers.
- (vi) Preliminary archaeological work must be carried out in line with the Recommendations of Humber Archaeology Partnership, dated 25th March, 2015.
- (vii) A detailed geophysical survey of the churchyard must be undertaken to establish the presence or otherwise of any vaults, voids, un-recorded tombs or other unstable ground or below-ground features.
- (viii) Fully-detailed drawings must be submitted (within a time limit set by the Chancellor) showing the depth and construction of the slab foundation and substrate beneath the entire churchyard paving, and how the junction of new and historic fabric was to be handled. This should indicate the extent to which the new surface would be traffic-proof.
- (ix) Any floodlighting, whether ground, or standard, or building-mounted, either in the churchyard or on the church building, must be the subject of a further, separate application for faculty.
- (x) The churchyard and square should not be made into one continuous public space without clear distinctions between the two ownerships and functions.
- (xi) Full details of all materials should be provided, not merely an indicative 'swatch'.

7. The matter was referred to me. By then the proposals had been modified from those that were put before the amenity societies in the earlier consultation period. I therefore directed that Special Notice under Rule 8.3(1)(b) be given to the Victorian Society, but for reasons I then stated, it was not necessary to give special notice to SPAB, the AMS or English Heritage. I did however ask that the CBC should be given notice under Rule 8.6(1)(a).

8. I also directed that the Petitioners be asked for their response to the various provisos that the DAC had advised I should have regard to if granting a faculty.

9. I was conscious of pressure of time as the City Council were very anxious to make progress with the development of the square to the west of the church and so needed to know what was going to be permitted by way of any re-ordering of the churchyard. I therefore asked for responses within 21 days.

10. Unfortunately the responses were delayed and that delayed my ability to deal with the matter when I had hoped to.

11. The **Victorian Society** responded on 19th August 2015 saying

“The Society does not wish to be made a party opponent in this case. This decision, taken with reluctance, should not be taken as implying that we are at all content with what is proposed. Indeed, we remain strongly opposed to the granting of a faculty for works that would seriously harm the setting of this Grade I-listed building. But the Society does not have the resources at this time to commence what could be turn out to be lengthy, time-consuming and potentially costly legal proceedings.

The churchyard wall is specifically included in the church’s Grade I listing. It is a handsome structure in its own right and gives a dignified and formal setting to the building. It is also unusual in that it forms a complete circuit enclosing Holy Trinity. Quite apart from the wall’s historic and architectural interest, and the contribution it makes to its surroundings, it could, as we have pointed out previously, also serve a practical purpose offering a degree of enclosure and seclusion when the churchyard is in use as a piazza with café seating.

While we note that the plans have been amended to retain slightly more of the wall, it is still proposed to demolish the entirety of its western end. This section of wall makes the most telling and positive contribution to the setting of the church and therefore we do not feel that the amendments to the plans (that would see a small additional section retained) represent a material improvement in the scheme sufficient for us to change our advice. We remain of the view that the proposals would cause serious harm to the setting of the church, and that this harm is neither justified nor mitigated by the information provided.

The argument that the wall would prove a physical impediment to the use of the square in front of the church is wholly unconvincing. Its low height is such that the erection of stages for performances, as is envisaged, could conceivably be constructed above it. The wall’s numerous attractive gateways (three at its western end) allow for the easy passage of pedestrians: it is hardly a physical impediment and the necessity of the wall’s demolition has not been established.

We also remain opposed to the provision of an area of car parking on the north side of the church, for which a section of wall would have to be removed. The facility this would provide would not amount to anything approaching the robust case required to justify such harmful interventions. The loss of Grade I-listed fabric, and the harmful impact of ranks of parked cars, would be detrimental to the setting of the church.”

12. The **CBC** responded on 10th September saying:

“In its original letter of advice the Council raised two substantive issues in relation to the plans for the churchyard. The first related to the demolition of the listed churchyard wall. The Council did not believe that this was essential to the successful delivery of the project and commented that a more robust justification was needed if it was to be countenanced. The Council was pleased to see that the revised proposals (as per the attached drawing) will retain a substantial section of the wall and reuse a number of the gate piers. Where it is to be removed the line of the original wall will be clearly marked. The Council felt able to support this aspect of the proposals.

The Council had also raised concerns in relation to the felling of the ten trees within the churchyard area. Having carefully considered the Engineering Report provided, the Council concurs with its findings in relation to the groups of trees to the south east and north west of

the church and, while regretting their removal, would agree that this is advisable. The Council suggested that Small Leaved Lime trees would constitute a suitable replacement.

The Council did not support the recommendations in relation to the large black poplar at the west end which is subject to a tree preservation order. This is a mature and potentially very significant tree about which relatively little is known. The Council considered that more information was needed, in the form of an arboricultural report, before it could support any decision to remove the tree.

Specifically, it will be important to establish:

- How old the tree is (it cannot simply be classified as 'over-mature' and may in fact be a valuable veteran that supports a wide range of wildlife).
- What its internal condition is – as older trees cannot be assumed to be unsound and therefore dangerous. It is possible to ascertain the stability or otherwise of the tree by using a minimally-invasive resistograph survey.
- What kind of black poplar it is. It may be the very rare native black poplar, *Populus nigra* ssp. *betulifolia*. This was widely planted in urban areas in the 19th C. DNA finger printing can be used to establish this and is inexpensive: the Council would be happy to advise further in this respect and may be able to assist with funding for these tests.

In addition, the Council was not convinced by the findings of the engineering report in relation to this tree. The Council's arboricultural expert has commented that, as the tree has been present since the 19th C, the soils will have long accommodated the water-seeking roots. The complete removal of the tree is likely to result in the surrounding soils become very wet, with the potential for heave and damage. The Council suggested that the parish seek further clarification from its engineers on this point.

If the tree were found to be in reasonable health then it should be seen as an asset rather than an issue and the Council would strongly recommend that it be retained and that a professionally-prepared Veteran Tree Management Plan be prepared by an appropriate professional. If it is a native black poplar, then its rarity should be celebrated with appropriate interpretative material."

13. The Petitioners have responded in full to the proposals. They have set out their responses to the DAC proposed provisos and conditions as follows:

- (i) **The memorials** – these have been recorded and cross referenced with burial information available; Humber Field Archaeology are carrying out a formal recording and have been asked to cross reference the findings to the East Yorkshire Family History Society Report which was based on 1860's data. I have also been provided with a survey of the memorial stones itemising which are intact and worthy of retention, which are broken and worthy of retention and which are recommended as not being worthy of retention.

Andrew Boyce the inspecting architect has been asked to report on suitable locations and a conservation strategy for the stones to be retained, anticipating that some will be situated in the paving, some (those that are relatively intact) will be relocated to an area to the east of the church within the churchyard wall, and some will be stored in the crypt

- (ii) **Retention of part of the wall** to the west end of the church. That is now a part of the current plan and the wall on the north side from the closest point to north-west corner of the church to the first gate-pier to the west is to be retained.
- (iii) **The marking of the line of the wall** that is to be removed. The proposal is that a 30mm strip of bronze will be laid in the pavement and inscribed to mark that line. It is also intended that there will be a clear difference in the paving within the area of the churchyard and without that area to mark with clarity the difference between the two.
- (iv) **Re-use of gates and gate piers.** The current proposal is to re-use original gate piers within the remaining sections of the north church yard wall, terminating the remaining sections of the wall and framing the car parking area (if permitted). That will leave two piers and three sets of gates which will be stored for potential re-use within the Castle Street burial ground. Detailed drawings as to which piers and gates are used in which location will be provided if permission is given to proceed as proposed.
- (v) **Preliminary archaeological work.** This has been done, I have been provided with a report from Humber Field Archaeology. This report is a significant contribution to my consideration of the proposed development.

This proposal is only one part of a much bigger scheme which will be brought forward by way of separate proposals and petitions for faculties in due course. Each of those will be considered on its own merits. Much of the archaeological assessment was concerned with the archaeological implications of those further works. However it did deal with the churchyard wall. It said this:

“The removal of a section of the churchyard wall at the western end of the church will clearly harm the *Moderate* significance of this designated heritage asset, though given the retention of significant stretches of the wall elsewhere, and the plan to mark the former course of the wall on the new surface, it is considered that the resulting harm will be *Less than Substantial*. The evaluation has also established that careful removal of the wall and its foundations should not directly impact on any intact burials (of *Low-Moderate* significance).

Resurfacing of the churchyard will involve the lifting and total replacement of the existing churchyard surface of repositioned ledger slabs, considered to be of only *Low-Moderate* significance, largely due to their present poor condition and unsuitability. Ground reduction accompanying the resurfacing will also potentially disturb the uppermost 18th- and 19th-century burials (of *Low-Moderate* significance). The stones will have been properly recorded before lifting and the ground reduction has been set at a level which will minimise the disturbance of the later burials (of *Low-*

Moderate significance); nevertheless these works will be accompanied by an appropriate level of archaeological monitoring and recording. This should, therefore, result in *Less than Substantial* harm to non-designated heritage assets.”

The report makes some recommendations, namely:

“Resurfacing of the churchyard is being carried out as part of a larger scheme of Public Realm Works being undertaken by Hull City Council, which will commence in Autumn 2015. The demolition of the length of churchyard wall, the removal of the tree stumps and tree roots, and the ground reduction associated with the resurfacing, will all involve archaeological input, ranging from historic building recording of the churchyard wall prior to demolition, through to archaeological monitoring, investigation and recording, including the recording and lifting of human burials, during the other below-ground works. The memorial stones have already been recorded *in situ* by HFA, but recording will be required of any additional details of the stones revealed during their lifting preparatory to the resurfacing. These various archaeological works have been included in a specification prepared as part of the tender process for the Public Realm Works, and are due to take place soon.

The on-site works should be followed by an appropriate level of post-excavation work. Given the results of the work carried out to date, it is considered likely that the further fieldwork carried out as part of the mitigation will produce results significant enough to deserve analysis and dissemination through publication of a journal article. Following the completion of the analysis and publication, a site archive, combining the written and drawn records from should be compiled. Finds from the previous archaeological fieldwork have so far been deposited in the church crypt; discussion will need to take place as to whether the site archive, including finds, will reside with the church, or whether deposition in an appropriate registered museum would be more appropriate.”

- (vi) **A detailed geophysical survey of the churchyard.** This has also been undertaken. In addition to a ground radar survey; a report has been prepared by D. Ashton Mgeosci (Hons). I have been provided with a copy. It does not contain any surprises and it makes a number of recommendations as to how the work should be carried out. I understand that his proposals as to methodology are to be incorporated into the specifications of work carried out on behalf of the Hull City Council.
- (vii) **Fully-detailed drawings** must be submitted (within a time limit set by the Chancellor) showing the depth and construction of the slab foundation and substrate beneath the entire churchyard paving, and how the junction of new and historic fabric was to be handled. Particularly this should indicate the extent to which **the new surface would be traffic-proof**. The petitioners’ response to this is that up to now there have been preliminary drawings whilst they have awaited the results of the various surveys. These surveys have now been carried out and after further consultation with the inspecting architect and the archaeologists, detailed drawings will be drawn up

and submitted.

- (viii) **Floodlighting** – the petitioners agree that any lighting will be the subject of a separate faculty petition.
- (ix) **The churchyard and square should not become one continuous space.** The proposals set out above in relation to the bronze strip, the separate and distinctive paving and the location of benches is intended to guard against that possibility.
- (x) **Full details of materials** should be provided, not just an indicative swatch. This will be done.

14. It is apparent from the above responses that the petitioners have done everything that one could reasonably ask in order to satisfy the very proper concerns of the DAC about the matters that concerned them.

15. The sixty four thousand dollar question in this matter remains whether the petitioners should be permitted to remove the churchyard wall to the extent that they now wish to do, on the basis that with all the safeguards that can be put in place to ensure that the impact of that loss to the historic and architectural environment is kept to a minimum, the loss is nevertheless justified in the greater public interest.

16. The Petition is of course unopposed in a formal sense. However, the basis upon how I should exercise my discretion as to whether to grant a faculty is well established. It must be exercised judicially. That means that I must consider all the relevant factors of which I am aware. That includes the various representations that have been made about the scheme at any stage in its history and development, particularly those of a critical nature.

17. I must then consider the well established principles by which chancellors determine these matters including in particular any guidance given by the appellate courts of the two provinces.

18. The most recent of those decisions is of course *in re Duffield, St Alkmund* [2013] Fam 158. In that case the Court suggested that Chancellors may be helped by addressing the following questions:

1. Would the proposals, if implemented, result in harm to the significance of the church as a building of special architectural or historic interest?
2. If the answer to question (1) is “no”, the ordinary presumption in faculty proceedings “in favour of things as they stand” is applicable, and can be rebutted more or less readily, depending on the particular nature of the proposals. Questions 3, 4 and 5 do not then arise.
3. If the answer to question (1) is “yes”, how serious would the harm be?

4. How clear and convincing is the justification for carrying out the proposals?
5. Bearing in mind that there is a strong presumption against proposals which will adversely affect the special character of a listed building, will any resulting public benefit (including matters such as liturgical freedom, pastoral well-being, opportunities for mission, and putting the church to viable uses that are consistent with its role as a place of worship and mission) outweigh the harm? In answering question (5), the more serious the harm, the greater will be the level of benefit needed before the proposals should be permitted. This will particularly be the case if the harm is to a building which is listed Grade I or 2*, where serious harm should only exceptionally be allowed

19. I have also considered whether I have sufficient information to reach a decision on that basis or whether notwithstanding that the petition is unopposed I should have a hearing and call witnesses. Having considered that question and having regard to the amount of detail I have in the many reports provided to me, I can see no advantage in holding a hearing. In so far as one or two questions have not yet been fully answered, those issues can be held over for further information, as they do not go to the root issue of whether the development should be permitted, but if it is to be permitted, some of the details of the execution of the scheme. It seems to me that what is needed is an answer to the basic question so that the church and the City Council know whether the scheme they wish for can go ahead or whether they must think again. So I shall deal with this matter on the basis of the written material before me.

20. Holy Trinity Church, Hull, is a church that I have known for a long time. I grew up and went to school in Hull. We held Leavers' Services in Holy Trinity and I remember attending other services there. I have therefore been familiar with the setting and environs of the church over many years. Furthermore I have watched the development of that part of the city in more recent years. Those changes have been very great indeed.

21. My early impressions were of a large and dark church. I was of course aware that it was surrounded by the wall the subject of controversy in this case. The impression was of a church that was surrounded, enclosed and set apart within its private grounds. That of course is what the Victorian Society recognise as the essence of what the wall provides; they said (see above) –

“It is also unusual in that it forms a complete circuit enclosing Holy Trinity. Quite apart from the wall's historic and architectural interest, and the contribution it makes to its surroundings, it could, as we have pointed out previously, also serve a practical purpose offering a degree of enclosure and seclusion when the churchyard is in use as a piazza with café seating.”

22. So the principal loss of amenity that will be caused by the proposed removal of part of the wall is the loss of being enclosed.

23. Further as I have just cited the Victorian Society also refer to the historic and architectural loss.

24. The history is that the wall was built in the late nineteenth century and has remained intact through the years, through the wars when Hull suffered such horrendous aerial bombardment and more recently through all the development of the old town area of Hull.

25. The architectural contribution of the wall is minimal. It is an ashlar wall with moulded plinth and coping with rounded corners. It is pierced by seven gates, two of which have been inserted since 1934. There are now no railings on top of the wall – they were removed some years ago in the interests of public safety. Iron gates were inserted in the 1970s. There is nothing about any of this that has been drawn to my attention as being of particular architectural significance apart from its completeness.

26. I have already noted some comments in the archaeological survey in relation to the impact of the loss of the wall. The passage to which I referred was preceded by a passage that said:

The evaluation investigated the foundations of the churchyard wall, which despite being included in the church's Grade I Listing, was considered in the Statement of Significance (WPC 2014, 50, 59) to be of only *Moderate* significance; nothing found in the present work alters this grading.

27. I am not persuaded that the degree of heritage harm contended for by the Victorian Society is established. In considering their assessment of the degree of harm I must take note that of the fact that the other bodies which have been consulted and which have made an assessment of that loss have put it at a lower level than does the Victorian Society – that is the CBC and Historic England (formerly English Heritage).

28. It is of course easy to understand how it comes about that the Victorian Society places a different value on this heritage asset. As with each amenity society that focuses on one particular part of the heritage it is almost inevitable that at times its deep affection for the period and everything associated with it means that the desire to protect the assets and its statements about their value need to be set in a wider heritage context. It is then that the broader perspective of the CBC and Historic England is a very good test of the assessment made by a more particularly focused amenity society.

29. With that in mind I prefer the opinion of the CBC and Historic England as to the loss of heritage value caused by the proposed demolition of a part of the wall and I assess that loss or harm as moderate.

30. But that is only half the equation. I must next ask myself “What is the gain that is said to flow from the removal of a part of the wall? And does that gain outweigh the loss there will be?”

31. I begin to answer those questions by asking myself “What is happening at the present time? In the city? And in the church?”

32. The area is unrecognisable to my childhood eyes - the bomb sites have been built on, the docks have become a marina, new buildings – shops, offices and leisure facilities – are developing apace. And in 2017 Hull is to be the City of Culture.

33. Some things however remain as I remember them – the Market is still there and busy, King Billy still sits on his horse (waiting until he can hear the church clock strike – “let the reader understand”) and Holy Trinity, the largest parish church in England, stands where it has always stood. But what does it stand for? What does its presence announce? Is it the civic pride of the nineteenth century? Is it that this is an enclosed space? Certainly from my own recent observation the state of the churchyard with many broken memorials and a generally unkempt feel says nothing of a positive nature.

34. The Statement of Need describes the history of the development of the present scheme. During a vacancy in late 2009 the then churchwardens sought a meeting with the bishop. They were concerned about whether the church had a future and if so what it was. They were concerned about what they regarded as the parlous state of the church, its invisibility in the life of the city, the low attendance at Sunday services, and the frightening state of the finances. The Bishop called a meeting in the November of that year attended by representatives of the city, local businesses and representatives of the wider church. At the meeting everyone said that they wanted the church to flourish and to play a part in the life of the city and the diocese. The Secretary to the DAC suggested that the church should commission a number of independent expert reports to review the options available to help enhance the life of the church in the city, develop a long term sustainability and attract worshippers. Some anonymous donors came forward willing to fund the work. Genecon were commissioned to conduct the review. Out of that review a development group emerged which included senior business people. Bauman Lyons were appointed as architects to develop the project. As part of the project discussions took place with the City Council and with the officers of the council who were working to re-model Hull’s public realm. It was in this context that the plan to make Trinity Square an integrated space of benefit to both Holy Trinity and the city emerged.

35. In 2013 an unsuccessful bid for a Heritage Lottery Fund Grant was made. It was also in 2013 that Hull chosen as the City of Culture for 2017. It was clear that there was an expectation that Holy Trinity would be one of the key venues for that year. The rejection of the funding bid and the City of Culture opportunities led to a reappraisal of the scheme and to the current proposals to remodel the outside and inside of the church.

36. During this time the church has seen a significant growth in numbers and activities as well as enjoying an increased profile within the city. Numbers at the Sunday 9.30 service have tripled, and the 11.15 service has grown but more modestly. New 'congregations' have been established at 4.00pm on Sundays, a weekly 'Toddler Praise', a weekly lunchtime Communion service and a monthly 'HT Praise' and 'Night Church'. A new discipleship programme has been set up. Many events have been pioneered in the community, both inviting the community in - for a Real Ale festival and cultural events and also going out to the community in the Trinity Market, holding a 'Live Nativity' and taking part in other activities in the bars clubs and cafes in the local area.

37. The Statement of Need says that "In all this, Holy Trinity is really chiming into and helping lead the new sense of excitement, self belief and aspiration that is now at large in the city ... Holy Trinity is growing and sharing its distinctive vision in a context which is probably unique in the modern history of a city notoriously lacking hitherto in self esteem and engagement with the spiritual."

38. It is in this context that the wider and more extensive scheme to open up the church has been developed and will have to be considered by me in due course.

39. In relation to the current proposal the Statement of Need says:

"The (Trinity) Square is already the venue of a number of events. These include monthly markets, Heritage Open Days, Skyride and the Trinity Music Festival. We would wish to see these continue and more to come in. In 2015 the Freedom festival plans to use the space, building up to 2017. The award in 2012 of 'Purple Flag' status to Hull has been a great advance and has encouraged more people to see the city centre as a safe venue.

However the Square as it currently exists is a split space. The wall is a significant problem for us. The message it conveys to the public at large is; "Keep out".

The Council's half of the square was re-ordered in the late 1990s. It is, however, showing its age and is quite harsh and uninviting. The trees have become over-bearing. The concrete seating is cold and uncomfortable. Our churchyard is a disgrace to the church and to the city and needs thorough re-modelling. The black poplar tree is over-sized for such a small space, 'over-mature' (ie well past its normal life-span) and its root system is playing havoc with the pavers in the churchyard and probably in danger of undermining the west wall of the church.

Working together with the Council, we wish to re-model this space as an integrated area (see Figure 2.4), and create a continental-style piazza. This will entail the removal of the wall from the north transept to the east gatepost of the southern wall (*the amount of wall to be removed is now less than that*) The removal will have the significant advantage of:

- * Opening up the Square as a single unified space
- * Encouraging people to enter and explore the church
- * Giving us the perfect reason to end car-parking at the west end of the church, enabling people to enjoy the western façade in all its glory
- * Transforming disabled access to the environs of the church.

The Statement of Need then gives details of some of the specific events that might take place in the Square in the way of performances, gatherings, and other activities.

40. It is the fulfilling of these needs and the benefit that will flow to the wider community in the city that has led the CBC and Historic England to say that these significant benefits outweigh the moderate loss and that this development should be permitted. I agree – I have no hesitation in concluding that these benefits will be real and substantial and that the balance comes down firmly in their favour when weighing them against the moderate harm to the environment caused by the loss of the section of the wall that is to be removed.

41. In the Statement of Significance prepared by Woodhall Planning and Conservation there are a number of old photographs. Some show the church in about 1880 with the newly built wall, topped with railings, encircling the church, but also itself encircled by the roads. The road at the west end has of course now gone and has become a public square with no vehicular access. The western wall now has a very different setting and feel than it had in those photographs and the sense of enclosure it creates is in my judgment one that does not make the same sense it made when it was defining the same boundary that was imposed by the roads.

42. In my judgement both the church and the city will benefit from the opening up of this space. It will be important to mark the history in a way that can easily be read and which will prompt questioning and exploration. But that can be provided for with the demarcation of the churchyard with the proposed brass strip and the separate style of paving.

43. I am also satisfied that this part of the wider development plan stands separate from the rest of the plan. It makes sense whether or not the rest of the development plan takes place.

44. The CBC has recently raised concerns about the potential loss of the black poplar tree at the west end of the church in the churchyard. The CBC considered that more information was needed, in the form of an arboricultural report, before it could support any decision to remove the tree.

45. I cannot ignore that advice and so it will also be a condition that the tree is not removed unless and until I permit it, after receipt of an arboriculture; report addressing the several matters raised the CBC in relation to type, age and condition.

46. Having regard to all these matters, and being satisfied that no objections have been received pursuant to Public Notice of these proposals having been displayed, I direct that a Faculty shall pass the seal until further order.

47. I will allow 24 months for completion of the proposal.

48. As I have set out above in paragraph 13 a number of the concerns of the DAC expressed in the provisos/conditions to its advice have already been satisfactorily complied with, some are being dealt with, whilst others remain outstanding and so there will be the following conditions to the faculty:

- (1) The proposals as to the memorials (described as 'Survey of memorial stones, Holy Trinity Churchyard, Hull, stones for retention colour coded') along with the intended location for each stone to be retained, and cross referenced to the record made by Humber Field Archaeology, along with the record itself, shall be referred to in the log book and kept with it and copies supplied to the Registry and the Secretary to the DAC for keeping with their files.
- (2) The line of the wall to be removed shall be marked by an inscribed 30mm strip of bronze laid in the pavement.
- (3) There shall be a clear difference in the paving within the area of the churchyard and without that area to mark with clarity the difference between the two areas.
- (4) The piers and sets of gates which are not used in the re-modelled wall shall be stored for potential re-use. Detailed drawings as to which piers and gates have been used and in which location, shall be referred to in the log book and kept with it and copies supplied to the Registry and the Secretary to the DAC for keeping with their files.
- (5) All contracts in relation to the works to be done in relation to these proposals shall, where relevant, contain requirements so that the works are carried out in a manner compliant with the recommendations contained in the reports by Humber Field Archaeology and D. Ashton Mgeosci (Hons) respectively.
- (6) Prior to the letting of contracts in relation to the works, detailed drawings shall be submitted to me and copied to the Registry and the Secretary to the DAC for keeping with their files, showing the depth and construction of the slab foundation and substrate beneath the entire churchyard paving, and how the junction of new and historic fabric will be handled; particularly these drawings shall indicate the extent to which the new surface will be traffic-proof.
- (7) Any proposals as to lighting the area shall be the subject of a separate faculty petition.
- (8) No works shall be done in relation to the black poplar tree or which might affect it, unless and until authorised by me. To that end the petitioners shall obtain and submit to me (i) an arboricultural report addressing the several matters raised by the CBC in relation to the type, age and condition of the said tree and (ii) a report from their engineers as to the likely effect of removing the said tree with its root system.

49. There shall be liberty to apply.

Canon Peter Collier QC
Diocesan Chancellor

16th November 2015