

12 September 2022

In the Consistory Court of the Diocese of St Albans

In the matter of St Paul's Church, Bedford

Judgment

Introduction

1. The church of St Paul, Bedford has a Grade 1 listing. There has been a St Paul's church on the site for over a thousand years, since well before the Norman Conquest. The present church is the largest of five medieval churches in Bedford.
2. The church is situated on a busy traffic island in Bedford town centre. It is the only building on the island. Heavy traffic flows around St Paul's square, including into bus stops and adjacent multi-storey car parks. Across the road encircling the church are, on two sides, municipal buildings: the town hall (facing the west door, which is currently used as the main entrance) and the local magistrates court (facing the south porch, an area of key relevance in this petition, which is blocked and the interior area used as office space). Facing the north porch – which, by this petition, the petitioners seek to re-order for use as the new main entrance - is the pedestrianised access point to the town centre.
3. Understanding locations (both of the church itself within its local geography and of particular architectural features of the building) is important in this case. I have been assisted in contextualising many of the matters raised in this petition by a site visit I made while in the area on 3 May 2022¹.

¹This was an unannounced and unaccompanied visit. I did not meet with the petitioners or any representatives from consultees. Contact on the day was limited to polite exchanges with volunteers working on site who provided directions and opened the interior north porch door.

The scope of the petition

4. A central issue in this petition is the determination of an appropriate location for two rare and significant stone statues. One statue is of St Paul (identified by the sword he is holding) and the other is of St Peter (identified by the key he is holding). As part of the thinking about their location, designs for the re-ordering of the north porch have been developed (the detailed features of the proposed works are considered further below). These re-ordering plans, together with the integrated proposals to contain the statues within the re-developed porch area, are the petitioned-for works.

The statues

5. The statues are very significant pieces of art. They are medieval and have been verified as such by the respected stone conservator Simon Swann and by curators at the Victoria and Albert Museum using analysis of their composition, details of the style of the statues and the particular draping of the robes to reach their conclusions. Their significance stems from their rarity. Most statues of saints from that date did not survive the iconoclasts of the Reformation. The minutes of a DAC meeting held in 1999 noted *“The mystery of how they had survived through the intervening centuries was indicated by the fact that the parvise was originally the Borough Office and the porch was used as its evidence chamber. Thus the statues would have had some secular protection from puritanical excesses.”*
6. The Church Buildings Council (the “CBC”) considers the statues to be *“...of undoubted national significance in being rare examples of external medieval figurative sculpture that survived the Reformation and Commonwealth intact”*² and Julian Litten (former President of the Church Monuments Society and former member of the Cathedrals Fabric Commission for England) wrote³: *“Apart from their religious duties, their importance as examples of medieval fine and applied art is profound.”* Although much detail has been lost over time, they remain recognisable and full of character, have some surviving detail of real interest and are in relatively good condition, as assessed by Simon Swann in his conservation report (the “Conservation Report”).

² CBC letter to DAC Secretary, 14 June 2016.

³ Email to DAC Archaeological advisor David Baker, dated 21 April 2016.

Background

7. This matter has a regrettably long history.
8. By the 1980s the statues were located in exterior niches above the south porch. At that stage they were removed without authorisation and brought inside the church. It is not known why and under what circumstances this took place. There is speculation in the papers before me which suggests that they were moved because of concerns about the rate of their erosion and there is also conjecture that they were brought inside to protect them during a programme of works to the church building taking place at the time.
9. Whatever the reason, after their removal they were initially stored on a bench beneath the west window. In due course the south porch was converted into the church office and the statues were relocated to the north corner of the chancel as a temporary solution. St Peter appears to have been cleaned during this period using a high-pressure water hose and there is a suggestion that the statues were washed and scrubbed with a scrubbing brush. There was, understandably, significant concern about their welfare in part as a result of these crude methods of care and in 2015 the statues were removed to a place of safety, pursuant to faculty granted upon the application of the DAC. The place of safety was initially the home of the stone conservator Simon Swann. Subsequently they were moved to the storerooms of Skillington Conservation workshop, where they remain.
10. In 2016 the PCC petitioned for the restoration of the statues to their south porch niches. However the CBC (which was funding the statues' conservation) opposed an external siting for the statues as it considered this to be "*...of greater detriment to the significance of the statues than if they remain in the church. The physical loss of important identifiers on the statues (i.e. their attributes) will affect their interpretation and hence their overall significance.*" The CBC's analysis and conclusions caused the PCC to revise its position in the context of the petition it had brought. It no longer sought their restoration to the south porch niches, and instead sought to site them internally in line with the CBC's views. The other consultees, however, remained in favour of the restoration of the statues to the south porch niches and against an internal location. The change of ideology and consequent differences of opinions came before the then-Chancellor, HH Roger Kaye QC, who directed that a fresh petition be lodged.

11. There was then a significant hiatus. During that time careful consideration was given to the most suitable location for the statues. As part of the proposal arrived at, plans for the re-ordering of the north porch were developed. The new petition which had been directed by the former Chancellor was then lodged earlier this year. In it, the PCC proposes that the statues should now be returned from their current place of safety to the care of St Paul's, to be displayed in a setting inside a re-ordered north porch. They would be located at a high level on the north aisle wall. The north porch itself would become the main entrance to the church, directly facing the town centre. Its present enclosed, dark and gloomy presentation (an undisputed assessment, common to all who have commented, and one I was able to verify and contextualise for myself at my site visit) would be altered by the following range of measures:

- 11.1. Providing a permanent location for the statues of St Peter and St Paul;
- 11.2. Using glazed top lighting to improve natural light levels and provide north light on the statues;
- 11.3. Cleaning of stonework and glass in the porch interior;
- 11.4. Improving steps; including step highlighting to aid the visually impaired and adding a hand-rail;
- 11.5. Adding and improving signage and information displays;
- 11.6. Including new feature and general lighting for the porch and statues, including LED lamps linked directly to east and west solar panels on the south porch roof to reflect the traversing of the sun on the statues;
- 11.7. The installation of new glazed inner doors.

12. The CBC, Historic England ("HE"), Society for the Protection of Ancient Buildings ("SPAB"), the Local Conservation Officer and the Local Planning Authority have all been consulted in relation to the proposals. The external consultees (the CBC, HE and SPAB) have responded and their responses have been carefully taken into account both by the DAC in reviewing the case and issuing its Notification of Advice in January 2022, which recommends the works in full (i.e. both as to the re-ordering of the north porch and the

relocation of the statues there) and by the court in reaching the conclusions set out in this decision. I have also had the benefit of reading a report of the DAC's detailed discussion at its meetings in November 2021 and January 2022. These reports have also been made available to, and commented upon by, the external consultees⁴.

13. In summary, the positions of consultees are as follows:

13.1. The DAC recommends the proposed works in full;

13.2. The CBC, bar some minor suggestions as to details (i.e. in particular in relation to proposed interpretation materials and step-free access) supports the proposals for the redesign of the north porch and also supports the relocation of the statues to a new home inside the new porch;

13.3. By email dated 10 January 2022 the SPAB registers its strong objection. It places particular emphasis on its view that the statues have additional significance when located in the niches, as a rare example of pre-reformation survival in context. It also disputes the parish's conclusions as to the rate of environmental deterioration in an external location and challenges other aspects of the case the parish makes for relocation of the statues. The SPAB finds the north porch proposals unobjectionable overall, but observes that the introduction of a rooflight will greatly alter the character of the porch and suggests an improvement to the lighting system could achieve the desired effects without the introduction of the rooflight. It also offers helpful observations on the materials to be used for hand-rails;

13.4. HE objects by letter dated 9 December 2021. Although accepting of the north porch proposals in general, HE objects to the proposals (as it understands them) relating to the installation of glazed doors and the introduction of the roof-light. As to the statues, it states that while it sympathises with the PCC's concerns as to weathering and risk of theft of the statues, if located in an external location:

"...in our view the niches on the south porch would be a more appropriate location for the statues. Although the statues being located in the south porch was arguably an

⁴ By correspondence from the Registry dated February 2022.

initiative...this is nevertheless representative of a historic phase in the church's story...We are not convinced that the statues are in such an advanced state of deterioration or are so unstable that they should be moved inside. Instead we suggest that they should be returned to the niches and their state of repair/rate of deterioration monitored and assessed by a stone conservator..."

14. The SPAB and HE have declined to become party opponents, but I have, as stated, considered in depth their written objections in reaching my conclusions in this case. My thanks to all who have contributed their expertise in detail and with great care and thought. All concerned have confirmed in writing that they are content to have the matter determined on the papers.

Structure of this decision

15. Although the proposals for the redevelopment of the north porch appear to have arisen out of a need to find a solution for the return, future location and care of the statues, that is not the sole objective of the works relating to the porch. The Statement of Needs expresses the view that the porch works are required in order to improve the access and welcome at St Paul's in order to remain relevant to its congregation, its local community and the wider community.

16. It therefore seems to me that the petitioned works before me are severable and that the works relating to the redevelopment of the north porch should be considered first. This conclusion is reached because - save for the discrete aspects which relate directly to providing for display of the statues in the porch - the outcome of decision-making in relation to the various proposed works to the porch is not dependent on a decision as to the whereabouts of the statues. By contrast, the decision-making about the whereabouts of the statues depends in part upon an evaluation of the alternative proposed locations (i.e. existing exterior niches above the south porch or newly created interior location in a redeveloped north porch). For these reasons I consider the proposed works to the north porch first and then turn to the question of the location of the statues.

Re-ordering of north porch

The Duffield questions

17. I have fully in mind that St Paul's, as a Grade I listed building, is of the highest national significance. As such, this faculty application falls to be addressed by reference to the series of questions identified by the Court of Arches in *Re St Alkmund, Duffield*⁵ at paragraph 87. These questions are:

- (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 not, have the petitioners shown a sufficiently good reason for change to overcome the ordinary presumption that in the absence of a good reason change should not be permitted?
- (3) If there would be harm to the significance of the church as a building of special architectural or historic interest, how serious would that harm be?
- (4) How clear and convincing is the justification for carrying out the proposals?
- (5) In the light of the 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?

The significance of the church

18. Having considered the helpful statement of significance submitted by the Petitioners, together with the listing entry, publicly available commentary on the interest of the church⁶, comments from HE, SPAB and Church Buildings Council and the details of the deliberations of the DAC, it seems to me that the significance of the church can be characterised as follows.

⁵ [2013] Fam 158

⁶ For example that of Simon Jenkins in "England's Thousand Best Churches".

19. A large part of the architectural and historic interest of the building relates to the great age of some parts of the fabric (some dating from the 1230s, although it is important to note that there was significant alteration in Victorian times), together with the historic events that have taken place there. For example, John Wesley preached his "Great Assize" sermon at St Paul's in 1758 and one of the church's chief treasures is the "Wesley pulpit" from which he spoke. The church's significance and unique character is drawn principally from aspects of its interior, in contrast with the church's exterior which elicits little to no interest from commentators or in the listing evaluation. The interior features contributing to its importance are, in particular, the original piers of the south arcade; the early 15 century Trinity Chapel at the east end of the south aisle, containing important civic brasses and acquiring a further poignancy and importance during the Second World War when the chapel became the secret location for the BBC's broadcast services; the Wesley pulpit; the brightly coloured Bodley chancel screen with a rood group above it; notable stained glass; the nineteenth century chancel incorporating medieval fragments, original stalls, misericords and ceiling and some colourful Victorian painted angels; the listing entry also specifically mentions that the memorials contained in the church are of interest, and at the east end of the north aisle is an area dedicated to the Bedfordshire and Hertfordshire Regiment with memorials to the fallen of that regiment along with Regimental Colours.

20. Doubtless there are other features which could also be singled out as contributing to the individual character and importance of the church. However it is worthy of note that:

20.1. Neither the listing details nor writers commenting on the significance and appeal of the building refer to the existence or location of the statues as being a factor contributing to the importance of the church. Those experts who have been consulted on the significance of the statues specifically obviously give these questions much thought, but in terms of the factors which give the church as a whole its significance, the statues or their location are not singled out for special attention (although I acknowledge that they have been absent from the church for a long time and may not have been present at the point of some assessments and commentaries);

20.2. Similarly the 19th century north porch is not considered to be a fine or interesting example. Indeed the assessment of the commentator Simon Jenkins in "England's

Thousand Best Churches” is that “*The entire north side of the church is...gloomy*” and others have used the same word to describe the north porch, with a member of the DAC observing that they had been “*struck by the smallness and darkness of the north porch*”.

Duffield questions in relation to the reordering of the north porch

21. Bearing in mind the above assessments and turning to consideration of the first *Duffield* question in respect of the proposed reordering of the north porch, I note that I am not concerned simply to identify changes to the building, however great they may be. I have to consider the impact of those changes on significance.

Cleaning of stonework and glass in porch interior; improved signage

22. Some aspects of the proposed works are uncontroversial and cause no harm to the significance of the church. Rather they are objectively beneficial to it. For example the aspects of the work relating to “cleaning of stonework and glass in the porch interior” will generate an improvement in appearance that overcomes any presumption in favour of retaining the status quo. Similarly, the introduction of new signage and information within the porch for the purposes of interpretation is relatively uncontroversial (except to the extent that it relates to the statues, which I will consider separately below), in appearance is in keeping with the re-design and more generally is in furtherance of the objectives of greater relatability, accessibility and understanding. I therefore permit those aspects without hesitation.

Introduction of new lighting into porch

23. Similarly, although it is a more significant element of the works than the cleaning, the addition of new feature and general lighting for the porch and statues, including LED lamps linked directly to east and west solar panels on the south porch roof, is an aspect of the proposed works which has met no objection from consultees. The CBC has indicated that the lighting proposals are acceptable, the SPAB describes them as “uncontentious” and HE raise no objection, indicating instead that it “recognises the public benefit”. I note, in particular, that no objection is raised to those elements of the proposed lighting which might be considered to be more unusual, namely the linking of LED lamps to solar panels on the

south porch roof in order to track the traversing of the sun. I am also satisfied that there is no harm to the significance of the building as I have assessed it above by reason of these elements. No complaint is made about the visual impact of solar panels on the exterior of the church (and I have in any event assessed the particular significance of this church as being related to its interior rather than its exterior appearance), and in any event the green energy contribution of the solar panels is to be warmly welcomed as part of the reduction in the church's energy footprint.

24. Noting the lack of any controversial aspect of the lighting proposal, I conclude that there is no harm to the significance of the church by the lighting elements of the plans and that any presumption in favour of retaining the status quo is rebutted by the obvious and universally acknowledged improvement that will be introduced to the darkness and gloominess of the north porch as it stands. Accordingly I will permit the lighting elements of the proposed works.

Improvement of steps

25. That part of the proposed re-ordering relating to the improvement of steps in the porch, including step highlighting to aid the visually impaired and the addition of a handrail is noted by the CBC as a missed opportunity to provide step-free access. All other consultees are content with the step re-design and proposed accessibility improvements, save that the SPAB has commented that any handrail ought to be made in a material befitting the entrance of a Grade I listed church (for example bronze, brass or iron), rather than matched to the handrails in the existing office. There has since been confirmation from the architect that the new handrails are to be of high-quality wrought iron. (The doorhandles for the intended new frameless glass doors are proposed in an appropriately modern polished stainless steel which, it is argued and I accept, is in keeping with the style of the doors and will also mean that the north porch finish mirrors the successfully introduced south porch glass doors thereby bring an additional element of visual harmony across the west end of the church.)

26. None of the suggested works relating to the steps will harm the significance of the church. The north porch itself is identified by many as distinctly unattractive in comparison with other areas of the church. Works to it are, therefore, not interfering with a feature of the

church which contributes positively to the unique character or significance of the church. Any presumption in favour of retaining the status quo is rebutted by the obvious improvements to the quality of welcome the north porch will offer.

27. However I agree with the CBC's observations that the reordering of the porch affords an important opportunity to provide step free access to enable maximum accessibility. I will, therefore, make it a condition of the faculty that consideration be given to including step free access in the designs, with any amendments to be approved by the DAC or of sub-committee of members before their implementation.

Introduction of glazed rooflights

28. Another element of the proposed re-ordering of the north porch is the use of glazed top lighting to improve natural light levels. Although the DAC and CBC support this proposal, HE states that rooflights are not generally characteristic of porches and that it would appear out of place, as well as resulting in the loss of historic fabric. It expresses concern about the possibility of condensation and leakages. The SPAB objects to the introduction of a rooflight, stating that it is “...without precedent in our experience, and which would completely change the historic character of the porch and result in the destruction of historic fabric.”
29. The church architect has responded to the shared concern of the SPAB and HE that there may be harm caused by loss of historic fabric as follows: “*The only historic fabric that would be lost in achieving this detail would be a small amount of mass-produced Victorian roof deck boards – no rafters or major timbers.*”
30. As to the concern that the introduction of rooflights in a porch is unusual (or “unprecedented” in the view of SPAB), although it is acknowledged by the petitioners that it is unprecedented in this particular church it is not admitted by them that it is unprecedented in relation to 19th century structures more widely.
31. The fact that a proposal is unusual is not, of itself, a valid reason for opposing the introduction if the benefits outweigh any harm and the *Duffield* questions elicit a positive outcome. I acknowledge that it is a factor which tends to support a conclusion that there

will be a noticeably changed effect on the historic 19th century character of the porch, because a rooflight will introduce a modern and unusual note to its appearance. But it does not follow without more that because it will be unusual that it will necessarily be a harmful change.

32. It is, in this case, difficult to conclude that the introduction of roof lights will impact negatively on the significance of the church, per the first *Duffield* question, given the relatively unassuming role the north porch and indeed the north side of the church play in its overall historic and aesthetic significance (by comparison with other areas and significant features of the church which are emphasised in assessments of its significance).
33. I am also satisfied by the church architect's submission that there will be minimal fabric loss which might otherwise have damaged the significance of the church. Only the lead in the area to be replaced with glazing and a small amount of mass-produced Victorian timber roof board will be lost. The existing roof structure will be fully retained and reversible.
34. In answer to the criticism that has been advanced that the introduction of the roof light may be harmful due to risks from leaks and condensation, I accept the response of the church architect to this that there is a lower risk of leaks and condensation from the double-glazed roof light than there is from the 3mm of lead that currently covers the roof. I note also that the flashings will be in lead and will meet all the best practice requirements of this material on a historic building.
35. Taking all of these points into consideration, I consider that there will be some harm to the architectural and historic significance of the church by reason of the changed appearance and slight loss of Victorian fabric, but that any such harm will be very minor in degree. Furthermore (and in answer to questions 4 and 5 of the *Duffield* questions) the introduction of significant natural light (achieved in an environmentally friendly way, without any need for a power source) into a dark and unwelcoming entry-point to the church provides a clear and convincing justification for this element of the works. I am persuaded by the petitioners that the introduction of the roof light will be a change for the better, bringing in significantly more light, and that it represents a step in the continuum of a long tradition of church building that has seen church window designs change from Norman, though perpendicular to modern in search of more light. The improved welcome of a well-lit entry space facing,

as the north porch does, directly onto the busy main public thoroughfare of the town, is likely to provide a significant public benefit to the church in the form of reaching and attracting the interest of a greater number of people. These considerations amply outweigh the small degree of harm that I have found.

36. I will, accordingly, permit the introduction of the rooflight as part of the proposed works.

The installation of new glazed inner doors

37. The installation of new glazed doors is proposed. This is part of the petitioners' aim to create a more open and welcoming entrance with "...a greater opportunity for visitors to see into the building before and as they enter."

38. This part of the proposal is not objected to by the SPAB. The CBC is content with the proposal (having first considered the level of security provide by the lockable outer doors and being satisfied with that). The DAC has recommended it as part of their recommendation of the petitioned-for works as a whole.

39. However HE objected to this element of the re-ordering on the basis of its conclusion that it will require the loss of "...what look from the photographs to be historic doors of some quality and aesthetic interest...although not of any great antiquity are nevertheless primary evidence of a significant latter phase of the building's evolution." HE therefore considered that the loss of the doors and their replacement with glazed doors would result in harm to significance in NPPF terms, suggesting that the door be retained and, provided a sufficiently robust justification could be provided, to partially glaze them in clear glass.

40. I am pleased to note that HE's concerns on this point are in fact unnecessary because the doors in question (the inner doors to the porch - effectively the doors to the north aisle from the porch, set in a lobby arrangement that projects into the aisle from the door case) are not being removed or replaced in this proposal. They are to be retained and will remain functional. The proposal is the same as that which was carried out for the south porch six years ago. A pair of supplementary glass doors is proposed which provide an unimpeded view into the church without having to have the lobby doors wide open to the elements. No historic fabric is to be lost.

41. The introduction of the glazed doors, particularly given the ingress of light when the porch is open, in combination with the increased light from the rooflights and renewed lighting scheme, would be a noticeable change to the north porch and potentially to the whole 19th century north wall area of the church. This would also change how the whole church is experienced and therefore I agree with HE that this element of the works may potentially impact upon the significance of the church. However, in accordance with the assessment required by *Duffield* questions 1 and 2, I conclude that the nature of the impact is likely to be an enhancement and improvement to the current position. No fabric is lost in this element of the proposals and there is no reason why the introduction of interior glazed doors should detract from the contribution the interior currently makes to the overall significance of the building by virtue of its coherence and integrity or the presence of particular features of interest. Indeed, I note that the proposal is identical to the south porch arrangement and therefore likely to introduce greater coherence into the interior of the church.
42. Furthermore, the introduction of glazed doors is an important element of maximising light into the dark north wall area and enabling visibility into the church by allowing the original doors to be opened to the maximum extent and left open – thereby also enabling a greater appreciation of the significance of the building by the public by opening up views of the important interior. This function provides, in my judgment, a further sufficiently good reason for change to overcome the ordinary presumption that in the absence of a good reason change should not be permitted.
43. I am therefore satisfied that the answer to Duffield question 1 is “no” and question “2” is yes, on the bases above, in relation to the introduction of the glazed doors and I will therefore also permit that element of the proposed works.

The Statues

44. The most controversial aspect of the petition relates to the location of the statues of St Peter and St Paul once they are returned to the church from the conservator’s workshop (I note that there is unanimity as to the desirability of their return to the church).

45. As previously indicated, the history of this matter stretches back over a very long period. The statues have now been out of their niches above the south porch for around 40 years.

46. Many differing views are cited in the papers before me: opinions of experts, of consultees, of interested and knowledgeable third parties. I have read and considered each of them carefully. It is not an efficient use of time to try to summarise each of them in this decision. However there are some documents which have proven particularly useful in my assessment of the question of whether the petition for their placement in the reordered north porch should be allowed or not. These are:

46.1. The comments provided by the consultees;

46.2. The view of Dr Glyn Davies FSA, Curator of the Victoria and Albert Museum Sculpture, Metalwork, Ceramics and Glass Department;

46.3. The conservation reports of the conservator, Simon Swann dated 10 July 2014 and 5 June 2015, together with later emails from Simon Swann to representatives of the DAC;

46.4. Notes of experts dated 27 April 2016 made by David Baker, the former Vice Chair of the DAC and former Bedfordshire Conservation and Archaeology Officer, comprising a compilation of views from academics.

47. Outside the scope of the reports on the condition of the statues and the expert opinions there are also a number of other factors I consider to be important to bear in mind when considering the questions before me:

47.1. There is what I assess to be a majority view on the papers that the south porch may not have been the original location of the statues. Christopher Pickford, one of the consultees referenced in David Baker's compilation of views notes that the "*...two statues are of slightly different sizes, and arguably fit awkwardly in their niches, though this does not necessarily mean that they had been imported from another position.*" . On this question HE states "*...the statues being located in the south porch niches was arguably a later initiative – having possibly been placed in this location in late C17/early C18...*". The notes of a DAC meeting held on 20 January 2022 record one DAC member "*with specialist expertise in medieval imagery*" observing "*...that he suspected the*

statues might originally have been on the internal east wall of the chancel, probably Peter and Paul at one side as the patronal saints, with the Virgin on the other side. They might not originally have been designed for external niches, but their external positions may have saved them from the iconoclasm which meant there was very little medieval sculpture left in the country.” These views are not conclusive as to the original location of the statues, but all support a theory that the south porch niches may not have been their original home;

- 47.2. With the exception of some doubt expressed by the SPAB as to their original function, what I assess to be the majority of views on the point appear to support the theory that these two statues have, over time, served a function of welcoming, or otherwise supervising or “*gazing at*” visitors to the church. In particular I note the views of Dr Julian Litten, which are reviewed in more detail below, and also observations on the part of the conservator Simon Swann. Mr Swann made the following recommendation: “*St Peter should be set within the east niche and St Paul within the west niche, in this way both will be orientated as to gaze upon those approaching and entering the porch*”. This was in the context of his response to the preferred view at the time that the statues should be replaced in their south porch niche. The orientations he directed relate to that location. However an important aspect of the view Mr Swann expresses seems to me to apply regardless of whether the location under consideration is the south porch niches or elsewhere, namely that there is considered to be a function for the statues: i.e. to “*gaze upon those approaching and entering the porch*”. The conservator plainly attached importance to that as he went on to direct the correct placement to allow effect to be given to the role;
- 47.3. The fact that there have been changes in the main entry points of the ancient church over time and the local geography has changed significant over time is relevant to both the ability of the public to view, appreciate and understand the significance of the statues and to the role the statues play within the church building.

Duffield assessment in relation to the location of the statues

48. The question of whether permission should be granted for placing the statues in a new position in the north porch, and the balancing exercise to be conducted via the *Duffield* questions in respect of these important artefacts, is a difficult one.

49. In summary I find that the justification outweighs the harm and I will permit the relocation requested in the petition. I break this conclusion down as follows.

Harm

50. The return of these important and rare statues to the church after long absence is potentially of great benefit to the significance of the church. However it is said by those who prefer to see them re-located to the south porch niches that they appear to have occupied for many centuries prior to their removal, that the statues' instalment in new homes in a refurbished north porch would of itself cause harm.

51. I accept that analysis. By moving the statues out from the south porch niches there is a loss of representation of an historic phase in the church's story. Although the statues are of considerable significance in their own right, their significance when located in their longstanding architectural context may be considered to be even greater given the narrative that attaches to that location as a rare survival of a pre-reformation arrangement.

52. However I do not consider that the level of harm (caused by the loss of their previous location and their relocation elsewhere in the church) is any greater than moderate. The statues will remain part of the fabric of the church and any view that the south porch is the "*original historic and architectural context*"⁷ of the statues is one which is open to significant doubt on the materials before me. Furthermore, although undoubtedly there is interest in understanding the important contribution their setting above the south porch is thought to have made in their survival, the history and context relating to this can be addressed in other ways. Both of these points are considered further below.

⁷ Expressed by the SPAB.

How clear and convincing is the justification for carrying out the proposals?

Better security inside

53. One of the justifications offered is that the statues (which are important works of art) would be afforded more security than would be available if placed externally. I assess this in the following way.
54. It is acknowledged that there remains a risk of theft or vandalism to the statues wherever they are located. I also note that the intention is to have the north porch substantially open most of the time in order to further the objective of welcome and visibility into the church which, to some degree, attenuates the security of the proposed new interior porch location. These risks can, I think, be compensated for by measures to better ensure their security (e.g. an alarm and/or video surveillance) and consideration should be given to an appropriate means of doing so.
55. It also follows logically that the risk of theft is likely to be reduced where the statues are placed internally above the main entrance way, as it is the focus of staff and public attention, as opposed to if they were to be placed externally above a disused doorway at what is in essence the “back” of the church where no one can observe them. There is nothing to contradict the logic of this conclusion in any of the objections to the proposals, save that it has been said that there are additional security measures that could be put in place for a south porch location. However, based on the analyses I have read in the papers, the sorts of measures required to secure such valuable and antique works in an unsupervised, out-of-the-way exterior location are likely to be more invasive (for example anti-theft cramps or other pinned security fixing) than would be required for the well-observed, locked-at night etc interior porch location.
56. On balance, I am persuaded that these important statues will be afforded greater (and less structurally invasive) protection and security in position in the north porch than they would be if relocated to the external south porch niches.

Reduced risk of weathering and environmental factors

57. There is little consensus in the documents before me as to the degree of risk to the statues from environmental factors in remaining outside, although the fact that such a threat to them exists is acknowledged by all experts and consultees. Differences in opinion emerge in the materials as to the extent to which damage to the statues is attributable to exposure, the degree of the ongoing threat, the timing for its likely impact upon them, the likely extent of the effects and the extent to which harm can be mitigated by regular cleaning and care.
58. The most informed view is that of Simon Swann who conducted a detailed study of the statues themselves. He notes that “...*the statues have generally weathered well over the years and with the right conservation and regular maintenance should survive well in their original location.*” He also makes a number of high-level points relating to sulphate-based pollutants⁸, carbonic acid decay and a rising concentration of nitrous oxide from diesel pollutants. In terms of the specific effects on and future risks to these statues, he suggests that the very dense nature of their stone fabric is likely to have offered protection against rapid erosion, and will continue to do so, although he does not suggest that they are immune to weathering (plainly they are not) and suggests that in an external location they will need regular 10-15 year conservation treatments including shelter coats which may be “*quite shortlived*” in an exposed exterior location.
59. I am also provided with a letter from the Victoria and Albert Museum’s expert curator which was produced during the original consideration of this matter by my predecessor Chancellor. The curator states as follows: “*There is no doubt that if they are replaced outside in their original setting, they will continue to weather and erode, probably at a much greater rate than they did in the past. This is clearly a matter for those responsible for the care of the church to decide, but if the figures are kept indoors, then they will be preserved for generations to come in a way that they will not be if placed externally. The external niches only provide a degree of protection.*”
60. The views of HE and the SPAB in respect of the risk of erosion are as follows: HE appears to acknowledge that the statues are at risk of damage and loss of detail through weathering, but suggests that the church should comply with any additional burden of conservation

⁸ Which are problematic for stone statues in a number of ways he notes, but which have reduced extensively since he mid C20th and were, in any event, prevalent in interior locations as well as exterior ones.

steps available to counteract this as best it can and feels that the importance of representing an historic phase in the church's story outweighs those risk and burdens. The SPAB relies, in particular, on the observation of Simon Swann that the majority of the loss of detail to the statues due to erosion is likely to have taken place in the 18th and 19th centuries when the sulphur content in the environment was at its highest. It places particular importance on Simon Swann's observation that sulphate levels have fallen over the years and draws on that fact to suggest that the risk to the statues is lower than the parish fears. The SPAB states that the Victoria and Albert curator's view needs to be seen in light of this reduction in sulphate levels.

61. In my assessment, the SPAB's emphasis on the reduction of sulphate levels in recent years unduly minimises the emphasis that Simon Swann placed on other environmental risks (for example acid rain which "*can gradually dissolve the carbonate materials within the limestone matrix*" and that "*...In pollution terms it is important to realise that there is a rising concentration of nitrous oxide (diesel pollutants and other sources) which may start contributing to stone decay*").
62. Furthermore the differences of opinion in relation to an external location contrast with the lack of any dissent over the (logical) proposition that keeping the statues inside would, without more, better protect the statues and promote a slower and lesser degree of deterioration.
63. The comparable reduction of an appreciable risk of the statues' deterioration due to weathering if kept inside the porch, and the associated likely reduction in the need for conservation interventions which of themselves may erode the statues little by little, leads me to conclude that the proposals to move the statues inside are also justified on these grounds. It may well be that, given the great age of the statues, they still need cleaning and/or protection or reinforcement from time to time despite an indoor location, albeit much less frequently than envisaged if located outside. It will be sensible (and would reflect views expressed by the CBC) to include a condition of relocation that the post-conservation report is updated to reflect the treatment and display of the statues, reflecting both their period of storage and their sheltered and protected location in the north porch.

Reduced cost of upkeep to the parish

64. If the statues are located externally they would need to be cleaned and conserved or protected (on Simon Swann's estimate) at intervals of 10 -15 year to replace at least 4 coats of colour matched shelter coat and undertake any other necessary works. In addition a ground-level binocular or naked-eye cherry picker inspection of the statues is recommended to be carried out every five years. For the costs of the 10-15 yearly conservation work Simon Swann estimated a cost of between £600-700 (which the SPAB very fairly increased to take account of inflation since the date of Simon Swann's report, to take this to a cost of around £1000). It is not clear whether this includes the two-day cost of any scaffolding which might be required for the conservation work. The SPAB include this in their own assessment of likely cost to the parish, suggesting that the global total to be found for the required conservation works is likely to be between £1000 and £3000, and I agree with their rough workings on the basis of the papers before me. (There would, presumably, also be an additional cost for the five yearly inspection of the statues, but as HE and SPAB have observed this could be carried out from ground level via binoculars and is likely to be less expensive than the conservation cost.)

65. I also note that the church is the beneficiary of the Dorothy Porter Trust, a charity specifically established to fund repairs to the fabric of the church. As at 2017 the charity was noted to have assets of £1.5m. I do not know what the current figure of the charity's assets is, nor the calls on its funds. But it is noteworthy that this fund is and has been available to ease the burden of church fabric costs, which puts the church in a better position than many with ongoing obligations of maintenance and repair. This, together with the fact that the costs in question in this case are relatively modest and would be incurred infrequently, albeit regularly, means that I do not regard the reduction in costs of maintenance and conservation as a persuasive reason in favour of the relocation of the statues to the north porch.

Appropriateness of placement

66. As set out above, there is well-informed expert support (and I note, in particular, that it appears to be the view that was held by Simon Swann) for the proposition that the function of the statues was to provide a welcome, or at least to "turn their gaze upon" those arriving

at the church⁹. Julian Litten (in the context of his view that the statues could be returned to the south porch niches) noted that the statues had a “*task of mission to the community*”. His assessment was that “...*St Peter, steadfast to Our Lord, and St Paul, a powerful missionary, together represent the two main attributes all Christians should embrace. And what better than that these two statues, again in their niches, should continue to have the effect on the townsfolk of Bedford that they possessed all those centuries ago?*” Although I disagree, for the reasons I will set out below, with Dr Litten’s conclusion that that function is possible from the now moribund location of the south porch niches, his poetic and insightful observations about the role of the statues and the attraction of restoring those purposes for the benefit of a modern generation are helpful.

67. There is also commonality between all commentators that these are beautiful, important pieces of art that ought to be seen and appreciated by many, rather than languish unseen. There is also acceptance of the fact that the circumstances which once pertained to the south porch (namely its function as the main entrance to the church, facing a busy entry point to the town) have fundamentally changed.

68. Despite these points the SPAB and HE, as well as several expert academic views compiled by David Baker, express the view that it would be preferable to place the statues in the outside niches above the south porch. For the reasons which follow, in light of the lack of visibility of the statues and the frustration of the possible function of the statues if they are placed in the niches above the now obsolescent south porch, I do not find their views persuasive.

69. The SPAB’s conclusion turns on its conclusion that “*While the statues are of considerable significance in their own right, their significance when located in their original historic and architectural context becomes exceptional as a rare survival of a pre-reformation arrangement.*”. As noted above, a conclusion that the south porch is the “*original historic and architectural context*” of the statues is one which is open to doubt on the materials before me. Furthermore, although undoubtedly there is interest in understanding the important contribution their setting above the south porch is thought to have made in their

⁹ Although, as discussed, the majority of views before me appear to support the idea of a function of “welcome” to the prayerful, or similar, the SPAB points to a lack of evidence of this function and states that it is “a concept perhaps less recognised by medieval audiences.”

survival, the history and context relating to this could be addressed (and arguably would be better addressed because it would be more widely seen and understood than simply seeing the statues in situ from a distance) by properly informative signs and information near the statues in the main entrance way to the porch.

70. The sense of place which was served by their presence in the south porch niches has altered profoundly. The Statement of Need comments that *“The porch is now hemmed in by a road way and railings...If returned externally, the statues and indeed the elevation cannot be viewed or appreciated at optimum distance. To stand outside the porch up against the church railings, the view is too acute; to stand on the curb or in the road behind the church railings, too dangerous; to stand on the far pavement, too distant.”*
71. I note that the majority of those expressing a view that the “original”¹⁰ location is the correct one appear only to have viewed photographs and none refer to having made a site visit. I did make an unaccompanied site visit during which I specifically reviewed the suggestion in the Statement of Need regarding the difficulties of viewing the south porch niches by reference to the various obstacles that now exist around the church (including the extremely busy road, the railings etc). I find the assessment in the Statement of Need to be accurate.
72. It is also important to contextualise the fact that there have been changes in the main entry points of the ancient church over time. The Statement of Need explains that at the time the south porch was constructed, the south porch was the main entrance to the church. It faced (and was much closer to than presently) the river, and the river was a much more significant means of travel and transport. Over time that local geography has changed. The south porch is now at the opposite side of the main public thoroughfare. It now faces a busy roundabout, bus stop and the local magistrates’ court. The south porch has been blocked up and is entirely out of use as an entry point, rather forming part of the wall of the internal office area of the church and there is no area which allows convenient and clear viewing of the niches or their contents¹¹. By contrast the currently unused north porch faces directly onto the pedestrianised access to the main area of Bedford town. When the north porch reordering has taken place, this location, facing the main footfall of the town, ought to

¹⁰ Used in a loose sense, given the points above which indicating doubt that the south porch niches were in fact the original locations of the statues.

¹¹ Per the Statement of Need: the pavement is too close without uncomfortably craning the neck, the opposite side of the road, outside the court, too far away for any meaningful appreciation.

replicate the functions once served by the south porch, namely the welcome and drawing in of visitors and worshippers.

73. Those who advocate for a south porch location have provided nothing to address the negative impact (on both statues and church) of the difficulties of viewing the statues if replaced in the south porch niches, nor of the reversal of pedestrian traffic to favour the north porch.
74. Extending the possibility of who - and how many - may see and understand these important art works is, in my view, an important justification for their relocation. As is providing a real and purposeful link back to the plausible theory of the original purpose of the statues by indicating a welcome to (or perhaps a sense of supervision of (by “gazing upon”)) those entering the church.

Conclusion on justification

75. It follows from the foregoing assessments that by reason of the improvement to the security of the statues; the reduced risk of damage through weathering, environmental and associated conservation work; increased opportunities to view and enjoy the statues; as well as the provision of a link back to their likely historic function I find the proposal to relocate the statues into the north porch to be amply justified.

In light of the strong presumption against proposals which will adversely affect the special character of a listed building, will any public benefit outweigh the harm?

76. The moderate degree of harm caused by the relocation of the statues is, in my judgment, substantially outweighed by the public benefit the relocation will achieve.
77. The local and national importance of the artworks mean that their improved security and better chance of preservation for the enjoyment of current and future generations is a major public benefit.
78. I am also persuaded that relocation to the north porch will provide a practical role for the statues and a focal point for visitors. The revivification of a function for these important religious works of art is likely to be significant benefit to the church, providing a genuinely

interesting and unique element in the re-ordered porch. This benefit may manifest itself in the attraction of visitors to see the statues who might not otherwise have visited the church¹². It will, in any event, provide interest and historic information to all, as well as providing a satisfying, fitting link between the ancient and the modern which is very much in keeping with the character of the church as a whole and therefore of benefit to the significance of the church.

79. I will accordingly, permit the proposed relocation of the statues to the north porch.

Conclusion

80. It follows from the foregoing that I will grant the faculty sought in full.

81. The grant is subject to the following conditions:

- 81.1. Consideration should be given to (i) including step free access in the north porch designs; (ii) installing appropriate measures to ensure the security of the statues in their new location (e.g. an alarm and/or video surveillance), with any amendments to current specifications to be approved by the DAC (or an appropriately constituted sub-committee of its members) before their implementation;
- 81.2. The post-conservation report in respect of the statues should be updated to reflect the treatment and display of the statues, including both their period of storage and their sheltered and protected location in the north porch;
- 81.3. The lighting installation should be undertaken by a person whose work is currently subject to an accredited certification scheme (e.g. NICEIC Approved Contractor) and must comply with the current Requirements for Electrical Installations (IEE Wiring Regulations) and the best practice published by the CBC and St Albans DAC;

¹²¹² This I draw from the common view as to the level of importance and interest of the statues as artworks.

81.4. All those working at height should take appropriate safety measures. Those used should be capable of arresting the fall of a person who loses a hand or foothold.

82. The time for completion of the works is 36 months.

Lyndsey de Mestre QC

Chancellor of the Diocese of St Albans

12 September 2022