

MINUTES OF A MEETING OF KINVER PARISH COUNCIL HELD ON WEDNESDAY 7TH MARCH 2018 AT THE COUNCIL OFFICES AT 95 HIGH STREET, KINVER

PRESENT: Councillor H Williams (Chairman),
Councillors: IG Sadler, DH Hadlington, BR Edwards, Miss V Webb*, Mrs C Allen, P Wooddisse, N Other, JK Hall, G Mander, J Cutler, Mrs D Geoghegan and County Councillor V Wilson

OPENING PRAYERS – Andrew Stilton led the Council in prayer.

40/18. **APOLOGIES FOR ABSENCE**

Councillors D Light and Mrs L Hingley (Vice-Chairman) their apologies for the meeting.

41/18. **DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS**

None were reported.

42/18. **MINUTES OF THE PREVIOUS MEETINGS**

The Minutes of the meeting held on 7th February 2018, having been circulated in advance of the current meeting, were approved and signed as a true record of the proceedings at that meeting.

43/18. **MATTERS ARISING FROM PREVIOUS MINUTES**

Brockleys Walk

Mrs Fullwood and Cllr BR Edwards have liaised with Andy Perry from SSDC, the District are going to put additional signs at the end of the road (opposite to the existing sign) saying leading to Brockleys Walk, and at the end of the road a further sign. This should help with the delivery drivers / ambulances finding the road.

We have written to the lady that raised this matter and have informed her of the above and suggested she keeps a copy of the Oak Close Post Code to give to whomever needs it as using this postcode takes the driver to Oak Close and the signs show lading to Brockleys Walk. The post code for Brockleys Walk takes you to the middle of the road, so using Oak Close is postcode takes you closer to her road.

This was noted.

44/18. **PUBLIC PARTICIPATION**

For note: The public participation is for the public to address the Parish Council on matters that they wish to. The Parish Council cannot comment or resolve action on any points raised at this time. If the item requires information being sent from the Council, the Clerk will do this following the meeting. If it is a matter for further discussion it may be added to a future agenda.

Standing orders were raised to enable members of the public to speak.

Mr Steven Rhodes addressed the Parish Council to ask for their support in the proposed development of the Burgesses and Mill House as it is going to cause privacy issues for all the residents that live in that end of the High Street.

Mrs M Rogers reported that she had attended the Support Staffordshire Connectors meeting this morning, the next one is on the 29th March at Bishops Wood. They are trying to get funding to enable locality meetings back more locally like Wombourne.

Standing orders were reinstated

45/18. POLICE TO ADDRESS THE COUNCIL

The latest Police statistics were circulated at the meeting, the PCSO's were not able to attend.

46/18. YOUTH CAFÉ PROGRESS UPDATE

Councillor J Cutler reported that:-

It is very early days but after 9 weeks except for half term attendance has been between 10 and 27 per night.

In total 35 different youths have attended with 23 coming at least 3 times.

Youth seem happy with what we are providing but we have started a suggestion box to see what else they would like to do especially with the summer coming.

Our thoughts are to bring in specialists, one night only sessions for activities, Kinver Fitness Collective have offered their time and Cllr Mrs V Wilson suggested linking with Baggeridge Aerial ropes for a trip out.

We have received grants without formal application from Wombourne memorials, Kinver Rotary, and Kinver Country Fair and are also generating income from nightly charge and the tuck shop.

The L & A Committee meet next week where we shall discuss future plans. Also we intend to have a volunteers meeting in the next month to listen to their opinions and to thank them all again. So far we have 18 volunteers working the rota and such is their enthusiasm we have more than we need most nights. We have other volunteers who so far have been unable to attend but will do so in the future. What is really encouraging is we have several volunteers in age range 18 – 25 who are regular supporters on the rota.

Finally the PC get a lot of criticism in the village, some of it unfair and ill informed but we are getting a lot of positive feedback for this pro-active initiative and it has been very well received in the village.

47/18. CASUAL VACANCY FOR POTTERS CROSS WARD

No election has been called by the public so the Parish Council can now advertise that there is a casual vacancy to be filled by co-option.

Notices need to be placed around the village and on social media / webpage, to let the public know there is a vacancy.

The deadline for receipt of nomination for the vacancy is to be set for Friday 16th March 2018 at 12.00 noon. The interviews for the post to take place on the evening of the 21st March at 7pm. This is a full Parish Council decision so the interviews are undertaken by all members.

48/18. NALC LEGAL TOIPIC NOTE ON FINANCIAL ASSISTANCE TO THE CHURCH

Last week we received notification from the SPCA (Staffordshire Parish Council's Association) re Financial Assistance to the Church (topic note L01-18)

A copy of the legal note is attached as appendix 1 to these minutes.

In reading the document through it is clear that grants are not lawful to be given to the church even under section 137.

The summary paragraph of the report reads:-

There is no current law to resolve the question of whether or not the 1894 Act restrictions override the provisions in later Acts of Parliament and ultimately it would be for the courts to determine the extent of any prohibition from the 1894 Act. Any court action started to resolve this point is likely to be expensive and time consuming.

It would of course, be possible for Parliament to clarify the point with a specific provision in new legislation, however, the Governments current view on the legal issues is that there is no need for further legislation as they believe the 1894 Act restrictions do not override the provisions in later Acts of Parliament.

Whilst there is no consensus on this issue, a council that considers making a payment in these circumstances needs to consider whether it is prudent to take a course of action that it cannot be certain is legally valid.

However, to be certain I contacted the Society of Local Council Clerks for their opinion on this matter their response is below:-

"I have read the advice note you have sent me.

It is difficult to say whether or not it is lawful to give a grant to a church without knowing the specific details of the grant and your email does not specify this. However, the Society has always agreed with the position laid out in this document that a council which gives a grant directly to a parish church is at serious risk of legal challenge in the courts and your interpretation is broadly correct. It is of course still possible to maintain a closed churchyard. Does this answer your question?

Kind regards, Delia

Delia Shephard , SLCC Advisor"

My response was:-

"That's great thank you Delia, the grant we have given over the past x years has been for maintenance and costs for running the church..."

Her response then was:-

“Well I think that should definitely stop! Delia

Delia Shephard , SLCC Advisor”

I have asked for SLCC to confirm if it is lawful for the Parish Council to continue to pay for the Methodist Church Car Park, the advice received is below:-

“At the moment it sounds as though you are giving them a grant which as we've agreed is not lawful. If you have a written agreement with them which states that you are paying the church for your use of their car park its not a grant it is a purchased service which is lawful. (You could do it by means of a licence or a less formal written agreement.)

But if the church is happy to let the public use their car park anyway why should the parish council be paying? You cannot use your funds to directly subsidise the religious activities of faith groups including churches, Methodist, Anglican or any other denomination.

Does that clarify? Best wishes, Delia

Delia Shephard , SLCC Advisor”

I asked to confirm exactly the position and she responded

“If you are paying for a licence to use the car park that sounds OK as it's not a grant. Regards, Delia “

David Pattison has also clarified that this is legally allowed to enter into a licence agreement for the Methodist Church Carpark...

Members noted this information.

49/18.

OUTSTANDING MATTERS FROM THE DISTRICT COUNCILLORS AND COUNTY COUNCILLOR TO ADDRESS THE COUNCIL ON ANY MATTERS RELEVANT TO THE PARISH

Councillor Mrs V Wilson reported that:-

- The repairs to carriage ways are being undertaken by urgent / emergency repairs first and then filtering down the priority scale. Amey allocate the work order so it is in their hands. At Present there are over 9000 priority faults that need attending to on the urgent list.
- The A458 from Enville to the Stewpony is scheduled to be resurfaced this coming financial year.
- The water running down Stourton bank is still being investigated.
- She has a meeting with the PCC, any questions that members would like asked to be forwarded to her.

Councillor BR Edwards reported that:-

- £125,000 cannabis farm has been found in Staffordshire
- The council tax increases are broadly 5.5%

50/18. REPORT OF THE CHAIRMAN

Nothing to report.

51/18. CLERK'S REPORT

1. Invitations to attend

Let's work together workshop

The above workshop is on the 23rd March at 9.30am, at Codsall

2. To Note

Update on data protection changes - We are still working through the notification requirements with David and this will be discussed at the next meeting.

Council news round-up edition 55
Churchill and Blakedown Parish Council agendas and minutes
Weston Anniversary Fund

3. Superintendents report

1 x new headstones have been installed.

These were noted.

52/18. COMMITTEE REPORTS

Planning & Development Committee Meeting of the 28th February 2018

The minutes of the above meetings, having been circulated, were **Received**, the following Recommendations in item 6 of those minutes were made to the Parish Council.

This was agreed

Finance and General Purposes Committee Meeting of the 21st February 2018

The minutes of the above meetings, having been circulated, were **Received**, and the following recommendations were made to the Parish Council:-

- the accounts as set as Appendix 1 to these minutes be accepted.
- 2 posts and 6 removable sockets and have them installed at agreed locations around the Parish. The costs are £1500 and to be taken from budget 54/3.
- to purchase 2 standard bins for the Marsh Playing Fields. It was agreed to not support financially the purchase of a bin on Prestwood Drive, as the land owner has to give consent, and there are further on costs for having this bin emptied by the Parish Council's technicians.
- to increase the burial fees by 10%.

The above recommendations were all agreed.

In addition:-

In light of the above information, the Parish Council cannot continue paying for the lease of the Methodist Church Car Park until clarification is received on the legality of undertaking this expenditure.

Clarification has been given by SLCC and the Chief Executive of the District Council that it is legally allowed to rent the church car park under a licence. It was therefore proposed by Councillor J Cutlet and seconded by Councillor G Mander to continue with the car park rental at a cost of £575 funded from the car park budget line. On a vote this was carried with 9 votes for.

53/18. ACCOUNTS FOR PAYMENT

The accounts as set out as appendix 1 to these minutes were accepted.

54/18. REPORTS FROM MEMBERS ON OUTSIDE BODIES

At the KSCA meeting on Tuesday it was noted that Matt Pickett is the new Chairman of the KSCA.

55/18. ITEMS FOR FUTURE MEETINGS

If there are any additional items for the next agenda these need to be with the Clerk by 26th March 2018.

56/18. DATES OF THE NEXT MEETINGS

Leisure and Amenities Committee	14 th March 2018
Interviews for co-option	21 st March 2018
Planning and Development Committee	28 th March 2018
Parish Council	4 th April 2018
Finance and General Purposes Committee	18 th April 2018

All meetings to start at 7.00 p.m.



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31 JANUARY 2018

L01-18 | FINANCIAL ASSISTANCE TO THE CHURCH

Introduction

The purpose of this briefing is to consider whether a parish council or, in Wales, a community council may provide financial assistance to the church (or other religious bodies).

Relevant legislation

s.6(1) (a) of the Local Government Act 1894 ("1894 Act") transferred powers from the Vestry and Churchwardens to the newly formed parish councils **"except so far as relates to the affairs of the church or to ecclesiastical charities."** s.6(1) (c) of the 1894 Act confirms the powers, duties and liabilities conferred on parish councils include "the holding and management of parish property **"not being property relating to affairs of the church or held for an ecclesiastical charity"**."

S.8 of the 1894 Act gives parish councils further powers including the power "to execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of the powers in s.6, **"not being property relating to affairs of the church or held for an ecclesiastical charity"** and further "to contribute towards the expense of doing any of the things above mentioned, or to agree or combine with any other parish council to do or contribute towards the expense of doing any of the things above mentioned". It should be noted that the prohibition relates to the nature of the property concerned not to the use to which that any funding will be put. Thus funding to make a church hall suitable for meetings of the guides and scouts is still prohibited because the building is church property.

Despite references in the above provisions to parish councils, the 1894 Act applies to both England and Wales.

The powers in the 1894 Act prohibit councils' involvement in property relating to the affairs of the church e.g. the maintenance or improvement of buildings or land or contributing to the costs. The question often asked is whether that prohibition still applies or is it overridden by legislation made after the 1894 Act. Examples of such legislation are:

- s.214(6) of the Local Government Act 1972 ("the 1972 Act") which provides that councils which are burial authorities may contribute to another

person's expenses (e.g. the PCC or synagogue) in providing a cemetery in which residents in the council's area may be buried.

- s.215 of the 1972 Act permits a council to maintain a closed churchyard.
- s.137 of the 1972 Act which allows a council to incur expenditure for any purpose except one which is subject to a statutory prohibition, restriction or limitation.
- s.138B of the 1972 Act empowers a parish council to support or facilitate a religious event.
- The General Power of Competence in s.1 of the Localism Act 2011 ("the 2011 Act") is available to eligible parish councils that satisfy the conditions in Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012/965.

NALC's views

There is an accepted legal principle, applied by the courts, which is that in interpreting what an Act of Parliament means, a specific provision overrides one of a general nature. In other words, if two statutory provisions are in conflict or overlap, the detailed provision will prevail over the more general one. In applying this principle, NALC's views are as summarised below.

Ss.137 and 138B of the 1972 Act and s.1 of the 2011 Act constitute general provisions and do not override the specific prohibitions in s.8 of the 1894 Act. S.137 expressly provides that expenditure cannot be incurred purposes which are subject to a statutory prohibition, restriction or limitation.

S.2 of the 2011 Act confirms that the general power of competence does not allow an eligible parish council to get round any statutory prohibition, restriction and limitation which existed before the general power was introduced.

S.214(6) of the 1972 Act which permits a council as a burial authority to contribute to the expenses of anyone else providing a cemetery, appears to overlap with the specific provision in s.8 of the 1894 Act which prevents a council from contributing to the affairs of the church and, in NALC's view, the specific provision would prevail.

S.215 of the 1972 Act is a specific provision in respect of the responsibilities of a council (whether or not a burial authority) to maintain a closed churchyard which, in NALC's opinion, thus overrides the prohibitions in ss. 6 and 8 of the 1894 Act.

Summary

There is no current case law to resolve the question of whether or not the 1894 Act restrictions override the provisions in later Acts of Parliament and ultimately it would be for the courts to determine the extent of any prohibition from the 1894 Act. Any court action started so as to resolve this point is likely to be expensive and time consuming.

It would, of course, be possible for Parliament to clarify the point with a specific provision in new legislation, however, the Government's current view on the legal issues is that there is no need for any further legislation as they believe the 1894 Act restrictions do not override the provisions in later Acts of Parliament.

Whilst there is no consensus on this issue, a council that considers making a payment in these circumstances needs to consider whether it is prudent to take a course of action that it cannot be certain is legally valid.

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Appendix 2 to the minutes of the Parish Council meeting held on the 7th March

Accounts for payment 7th March 2018			
Chq No	Ref	Particulars	
101063	SCC	Lease invoice not received Janary	349.38
101066	Home and Hardware		48.72
101067	Sage	Yearend forms	34.80
101068	OCL	Supplies	296.28
101069	Kinver Edge Farm Shop	Additional days	20.00
101070	Petty cash		53.69
SO	Pureshine Windows		20.00
SO	Kinver Youth Café	Reimbursement for purchasing speaker from donations received	29.99
		Total	852.86
Chq No	Accounts for payment		
101071	Eastern Purchasing	Cleaning supplies	163.32
101072	J R K Computer supplies		
101073	Kinver Edge Farm Shop	Opening toilets March	100.00
101074	OCL	Supplies	
101075	SCC	Pensions	1698.81
101076	SCC	Van lease January	
101077	SWOPS	Fuel account	
1010178	Viking Direct	Stationary supplies	75.76
			2037.89
List of Monthly Direct Debits			
DD	SSDC	Rates Comber Ridge	38.00
DD	Inland Revenue	February	1244.64
DD	Utility Warehouse	Garage electricity	
DD	Utility Warehouse	95 High Street Gas and electricity	264.06
DD	Utility Warehouse	Kinver Edge Toilets	9.63
DD	Utility Warehouse	High Street Toilets	22.14
DD	Salaries	March	4933.12
DD	Screwfix	Supplies	19.95
DD	Pitney Bowes	Postage	109.60
		Total	6531.54
		Total Expenditure	9422.29
Receipts			
	Burial Fees		0.00
	Toilet Income		90.00
	Donation From Kinver Rotary for Youth Café		200.00
	Donation from Kinver Country Fayre for Youth Café		154.00
	Grant from SSDC	Civic Service	500.00
		Total Income	944.00