

Meeting date: 15th May 2023

Authors: Mrs Sharon Sweet PSLCC, Clerk to Beachamwell Parish Council

Subject: To clarify whether the parish council is legally responsible for the maintenance of the whole churchyard at St Mary's

Recommendations:

That council retrieve (from the previous chairman's family) any remaining PC paperwork and complete a thorough search for papers relating to the churchyard transfer before proceeding any further

1. Background

Establishing responsibility

Beachamwell churchyard was closed by Order in Council in October 1990. The official closing of a churchyard does not automatically transfer the maintenance responsibility to a parish council.

For any parish council to be legally responsible for the maintenance of the whole churchyard a PCC must serve a formal written request on the parish council in accordance with Section 215 (2)(a) of the LGA 1972. The notice will give the parish council 90 days to respond. Three months after the giving of the notice, the parish council becomes legally responsible for maintaining the churchyard, unless it gives notice under the Act to the district council, requiring the district council to take over the responsibility on their behalf.

In the case of Beachamwell neither the PCC, PC or Diocese hold a copy of any written request made to Beachamwell Parish Council in the early 1990s. While the minutes of the parish council do confirm a request, in some format, was made by the PCC to the PC, if this was an informal agreement to cut the grass and do some wall repairs it would not constitute a formal transfer of maintenance responsibility of the whole churchyard.

Currently, it is not possible to produce proof the PCC formally transferred the maintenance responsibility of the whole churchyard to the PC in 1990. As the maintenance of a churchyard is a significant financial obligation the parish council must satisfy itself there is a legal obligation to maintain.

Council believe that there is further parish council paperwork still being stored at the previous Chairman's property. This needs to be retrieved and checked for any paperwork relating to the churchyard before proceeding any further. All parish council paperwork must be held by the Clerk/Proper Officer.

2. Appendices

Appendix A

Transcript of minutes:

All minute extracts 1989-1991 regarding churchyard

July 1989 – Mr Rix (Cllr) informed the meeting that the churchyard could now be formally closed and the PCC would be doing this. The churchyard and its maintenance would then be a PC responsibility. The legal situation would be checked regarding this.

Oct 1989 – Mr Swift (Cllr) pointed out that the PC were able to delegate responsibility for the churchyard to the DC, proving they did so within the 3 months of notification of closure from the PCC.

Feb 1990 – It was decided that more information should be obtained on the councils legal position with regard to the maintenance of the churchyard when it was officially closed.

March 1991 – The PCC had informed the PC that they wished the latter to assume responsibility for maintenance of the churchyard now that it was officially closed. It was agreed that the Clerk should approach Mr Shreeve, who had cut the grass during 1990 to see whether he would be prepared to continue doing so, pointing out that there was no longer a mower available for his use.

April 1991 – The Clerk reported that Mr Shreeve was prepared to continue cutting the churchyard grass for the sum of £90.00 for six cuts plus petrol costs for the mower.

September 1992 – Mr Adcock noted that bricks were falling in odd places from the (churchyard) wall. This was now the Parish Council's responsibility and it was decided Mr Guild be asked to look at the wall and make necessary repairs before bad weather conditions worsened the problem.

December 1992 – repairs to St Mary's churchyard wall – Mr Guild estimated these would cost no more than £50.00 to carry out and this was agreed by the Council.

Further reading enclosed with this report:

- Closed Churchyards (Diocese of Gloucester)