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To The Owner/Occupier
Kinver Rectory
Vicarage Drive
Kinver
Stourbridge
DY7 6HJ



9th November 2022

Dear Kinver Parish Resident

Introduction of a Special Expense under Section 35 of the Local Government Finance Act 1992

I very much regret that I must write to you regarding the introduction of a Special Expense under Section 35 of the Local Government Act, 1992.

In October 2019, the council approved to treat any one-off maintenance costs within any closed churchyard in the district as a 'Special Expense' under section 35 of the Local Government Finance Act 1992. This act allows various amounts of council tax to be calculated and applied directly to those residents living within the parish of the closed churchyard.

Unfortunately, substantial maintenance work is required to be carried out to St Peters Church boundary wall to ensure it is safe.

In line with the decision made by the council to treat any one-off maintenance costs within a closed churchyard as a special expense, the cost to carry out the repair work will be applied to the residents of Kinver Parish.

The 'special expense' amount will be applied to your council tax during 2024-25 only, and not for the following years.

Under the Burial Act 1853, once a churchyard is closed (or part closed), the responsibility for ongoing maintenance of the site initially rests with the Parochial Church Council but can be passed onto the relevant parish council who may accept or decline this responsibility. If the parish council does decline, the responsibility for maintenance is transferred to South Staffordshire Council.

Kinver parish council have declined responsibility and served notice on South Staffordshire Council to undertake responsibility.

South Staffordshire Council cannot decline the maintenance responsibility; this transfer is compulsory, not dependant on the condition of the churchyard in question, nor dependant on the council's ability to meet this increase in maintenance costs.



South Staffordshire Council

The cost of the special expense is dependent on the council tax band of each property, and the estimated cost for each banding is detailed in the table below:

	Amount	A	B	C	D	E	F	G	H
Special expense	£128,901.64	£26.15	£30.50	£34.86	£39.22	£47.94	£56.65	£65.37	£78.44
Monthly cost based on 10 tax payments		£2.62	£3.05	£3.49	£3.93	£4.80	£5.67	£6.54	£7.85

The above table is an estimated repair cost and where possible South Staffordshire Council will take steps to ensure that these costs are kept as low as possible, to not incur further expenses for residents of Kinver parish.

The final expenditure will be confirmed in your 2024/2025 council tax bill.

The council recognises that this is not an ideal situation, however the current legislation leaves very few options available, and the council feels that any one-off maintenance works required to be carried out within a closed churchyard should be met locally.

Unfortunately, both Kinver Parish Council and St. Peters Church Parochial Council declined to contribute to the cost of the maintenance work needed, leaving South Staffordshire Council little choice but to pass on the full cost to Kinver parish residents.

This will equate to an additional £3.93 per month (based on a Band D property) for the financial year of 2024/25.

Please find enclosed further information and frequently asked questions regarding the special expense and project works.

Additional information is also available on the council website, and any enquires should be directed to bereavementservices@sstaffs.gov.uk

Yours sincerely

Councillor Len Bates
Cabinet Member for Community Services

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REPAIRS TO BOUNDARY WALL AT ST. PETER'S CHURCH, KINVER FREQUENTLY ASKED QUESTIONS

1. *Why does South Staffordshire Council have responsibility for maintaining closed churchyards?*

Under the Burial Act 1853, once a churchyard is closed (or partly closed), the responsibility for ongoing maintenance of the site initially rests with the Parochial Church Council but can be passed onto the relevant parish council, which may accept or decline this responsibility. If the parish council does decline, then the responsibility for maintenance is transferred to South Staffordshire Council.

The main churchyard at St Peters Church, Kinver, is now formally closed, and the parish council declined responsibility and served notice on South Staffordshire Council to transfer the responsibility in 2017. South Staffordshire Council cannot decline this maintenance responsibility.

2. *What does South Staffordshire Council have responsibility for maintaining within a closed churchyard?*

The council has responsibility for grounds maintenance and health and safety matters within the closed churchyards, however, the church and its grounds remain under the ownership of the Diocese of Lichfield.

The council has a responsibility under the Occupiers Liability Act and the Health and Safety at Work Act 1974 to ensure that all reasonable practical measures are taken with regard to the safety of the churchyards and to ensure that they are safe places to both visit and work.

Currently we are responsible for maintaining four closed churchyards - they are: St. Benedict's Church, Wombourne, St. John's Church, Swindon, St. Paul's Church, Coven and St. Peter's Church, Kinver.

3. *What happens when a closed churchyard is transferred to South Staffordshire Council?*

To minimise the inherited health and safety risks and financial risks to the council when a churchyard is transferred, a series of professional reports are commissioned to identify any remedial tree works and structural works that are necessary to bring each closed churchyard site up to a safe standard.

In taking on the responsibility for maintaining a closed churchyard, South Staffordshire Council asks each church to contribute to the cost of any necessary work. When a church is unwilling or unable to contribute, it is not acceptable for South Staffordshire Council as 'occupier' of the site to simply allow the decline of the churchyard and its associated features.

4. *Why are repairs to the churchyard wall in Kinver necessary?*

All the boundary walls require some repointing to protect the existing stonework. There are also significant parts of the west, north and south wall that require rebuilding.

As these walls are retaining structures, if they are not tended to this will affect the levels and the condition of the ground and graveyard, which could cause a significant health and safety risk to visitors of the churchyard.

The walls will only deteriorate further with time if the works are not tended to soon. It is at this point that the wall would become a health and safety issue and the level of repair and cost would increase, so it is considered prudent to tackle all these issues at once.



5. **Why does this affect me?**

During the transfer of any closed churchyard to the council, best practice suggests that the onus is on the church to ensure that the churchyard is 'in decent order and its walls and fences in good repair' before maintenance passes to the council. However, there is currently little in the way of a legal basis to ensure that this is the case.

The cost of liabilities associated with boundary walls and structures within a closed churchyard can be extremely high, so to fund any one-off major costs identified at closed churchyards, the council treats these as a 'special expense' under section 35 of the Local Government Finance Act 1992.

This allows different amounts of council tax to be calculated for different locations and for these costs to be passed directly to those residents living in a parish with a closed churchyard.

The cabinet member for community services issued an individual member decision during September 2019 that a 'special expense' for one-off major repairs can be charged to residents in a parish where a closed churchyard has been transferred to South Staffordshire Council under section 215 of the Local Government Act 1972.

This decision was then issued to all 48 district members for their consideration, during this time it was not called in for scrutiny. The final decision was issued by South Staffordshire Council on 11th October 2019. The decision can be seen here:

https://southstaffs.cmis.uk.com/Decisions/tabid/67/ctl/ViewCMIS_DecisionDetails/mid/391/Id/979/Default.aspx

6. **How much will I be expected to pay and when?**

The total cost of works to fully repair the wall around St Peter's Church burial ground has been scoped by an independent specialist contractor.

All the surrounding walls to the churchyard require some repointing to protect the stonework and several sections need completely rebuilding. The total cost of works is estimated to be **£128,901.64 as of August 2022** (the final cost is subject to market prices / costs of materials and inflation).

Each property in Kinver will be charged a different amount depending on their council tax band. The 'special expense' amount will be applied to your council tax during 2024-25 only, and not for the following years.

Please see table below for the estimated 'special expense' amount for each council tax band based on the estimate above (**final figures will be subject to change and will be confirmed in your 2024-25 council tax bill**).

	Amount	A	B	C	D	E	F	G	H
Special Expense	£128,901.64	£26.15	£30.50	£34.86	£39.22	£47.94	£56.65	£65.37	£78.44
Monthly cost based on 10 tax payments		£2.62	£3.05	£3.49	£3.93	£4.80	£5.67	£6.54	£7.85



14. *What are the estimated timescales for the work?*

Until the council has all the necessary permissions and signed contracts in place, we cannot give exact timescales when the works will commence, but it is anticipated the works will begin during 2023.

While repair work is being carried out to the church boundary wall, members of the public are asked to keep to the paths where possible and to always keep children under close supervision.

15. *How can I contact the council for more information?*

You can contact us via email at bereavementservices@sstaffs.gov.uk and you can also visit our website www.sstaffs.gov.uk and search for Closed Churchyards.



7. Can you please advise if there is an upper limit on the amount of additional financial contributions I will be expected to make towards the closed churchyard in the future?

There is no upper limit on this financial amount that could be charged for unforeseen works to the churchyard.

8. We are not Church of England faith so why are we being asked to pay?

All residents of Kinver will be charged for these repairs as a 'special expense' on their council tax regardless of faith.

9. Where else in the district has this occurred and the cost passed onto residents?

This is the first instance of South Staffordshire Council applying this decision. However, the council is responsible for four closed churchyards across the district where, in principle, a charge may be imposed in future years to fund any one-off major costs.

10. Who will be carrying out the repairs?

The work will be carried out by Midlands Conservation Limited's specialist engineers and stone masons with demonstrable experience of working on conservation and restoration works to historic buildings.

11. Can anyone else quote for this work?

The provider for the works has been procured via the ENTRUST public sector Framework. The work is of a specialist nature; as a result the most suitable contractor on the framework has been approached to complete the works required.

12. How was the provider for the work selected?

South Staffordshire Council followed the approved contract procedure rules by utilising the ENTRUST public sector framework.

Frameworks help public and voluntary sector bodies procure goods and services from a list of pre-approved suppliers, with agreed terms and conditions and legal protections.

A public sector procurement framework is an agreement put in place with a provider that enables the council to place orders for services without running lengthy full tendering exercises. Frameworks are based on large volume buying, meaning councils can source services at lower prices. The use of a framework to purchase goods or services ensures best value and compliance with all legal and financial requirements.

13. Does the council have all the necessary permissions in place?

Planning Permission: It has been confirmed that planning permission is not required as the works to the wall will not see the wall move or the height of the wall adjusted.

Listed Building Consent: St Peters Churchyard does not fall within a scheduled ancient monument. The wall has been deemed not curtilage listed (even if the wall was curtilage listed it would fall within the Ecclesiastical Exemption Act 2010, which gives provision for work to take place on tomb chests, lychgates and boundary walls).

The necessary permission to carry out the work will be required from (DAC) Diocese of Lichfield. No work will be carried out until this permission has been obtained.