

Draft Letter to Jenny Spaul, Kinver Parish Council

Dear Ms Spaul,

Section 215 of the Local Government Act 1972

Application for the Transfer of Responsibility for the Churchyard of Kinver St Peter

Further to our earlier email correspondence with you and to informal discussions with Cllr Henry Williams, we now make formal application to transfer responsibility for the main churchyard of Kinver St Peter to Kinver Parish Council. This application was authorised by the Parochial Church Council at its meeting held on 19th July 2016. We therefore enclosed a copy of Notice under Part B(i) of the 1972 Act and together with a copy of the Order in Council of 18th May 1881 for the discontinuance of burials in the said churchyard. This application relates to the main churchyard surrounding the church building, including the original church site and extensions of 1843, 1857 and 1881 as shown on the enclosed plan. The application *excludes* the later churchyard extensions of 1915, 1947 and 1957 located on the opposite side of Church Hill behind the Shirlaw Gates. We also confirm that we have sent an identical notice of this application to South Staffordshire District Council under Part B(ii) of the 1972 Act. We understand that the 1972 Act gives you the option to re-transfer the church yard to the District Council should you so decide.

The Closure Order of 1881 does not appear to specify the reasons for which closure was requested, but we assume that it was because the churchyard was full. This churchyard is still used for the burial of cremated remains, but we note that guidance issued by the Ministry of Justice that, "the closure of a churchyard under the Burial Act 1853 is understood not to prevent the interment of cremated remains".

The churchyard is subject to regular maintenance and ongoing repairs as necessary. We have recently completed the repair of the retaining wall to the upper car park at the corner of Church Hill. We do not believe there are any other major maintenance issues that need to be addressed and we have therefore defined the overall condition of the churchyard at Box B3 as "fair".

We are extremely grateful for the Parish Council's cutting of the grass in the entire churchyard, both that area subject to this application and the area excluded from it on the opposite side of Church Hill. We would very much like this arrangement to continue should the transfer be accepted.

We therefore ask that Kinver Parish Council complete Box B4 and inform us within two calendar months of the date of this letter as to your decision and re reasons for it.

Please do not hesitate to contact us if you require any further information.

Yours Sincerely

Karen J. Stantion

Rector of Kinver and Enville

M. R. Middleton

PCC Secretary, Kinver St Peter.

Part B(i)

Notice of intention to apply to transfer maintenance responsibility

(To be sent to the appropriate Town / Parish council or parish meeting)

In the event that ~~An~~ Order in Council ^{was} ~~is~~ made to discontinue burials ~~in~~ ^{on}

18th May 1881 [copy enclosed] in Kinver St Peter churchyard,

Kinver St Peter Parochial Church Council

hereby gives notice of its intention to request

Kinver ~~Town~~ / Parish council ~~or~~ parish

~~meeting~~ (delete as applicable) to take over maintenance responsibility for the churchyard in accordance with the provisions of section 215 of the Local Government Act 1972.

Signed (Secretary of PCC): MMM Date: XXX

<p>B1 The grounds for closure* are (PCC to ✓ as appropriate):</p> <p>a) There is no proper room for new graves. <input type="checkbox"/></p> <p>b) Further burials would be contrary to decency. <input type="checkbox"/></p> <p>c) Discontinuance of burials would prevent or mitigate nuisance <input type="checkbox"/></p> <p>d) Further burials would constitute a health risk <input type="checkbox"/></p> <p>e) Other <input checked="" type="checkbox"/></p> <p>The closure order was made on 18th May 1881 Additional information regarding the reasons for discontinuing burials is / is not attached see enclosed order copy and map</p> <p>* Grounds (a) to (d) have been agreed by the Ministry of Justice, Church of England and local government representative organisations as potential grounds for justifying closure.</p>
<p>B2 The churchyard contains (PCC to ✓ as appropriate):</p> <p>war graves <input checked="" type="checkbox"/></p> <p>earth graves with space for the burial of additional family members <input type="checkbox"/></p> <p>vaults/walled graves with space for additional burials <input type="checkbox"/></p> <p>graves reserved by faculty <input type="checkbox"/></p>

B3 The overall condition of the churchyard is:

Fair

NB: Please use one of the definitions provided below.

Further information covering the churchyard's pathways, walls and fences, memorials and trees is set out in the attached document.

B4 Does the Council / chairman of the parish meeting have any objections to the closure of the burial ground, on the grounds given above at B1:

Yes No

The council / chairman of the parish meeting should now return this form to the Parochial Church Council explaining, if necessary, why it is considered that the burial ground should not be closed under the grounds given at B1

Definitions for overall churchyard condition for Question B3.

Good	The churchyard is in an acceptable condition for the maintenance responsibility to be transferred. The trees, walls and fences are in a reasonable state of repair, and the monuments have been assessed for safety within the last 2 years.
Fair	The churchyard and/or the trees, walls and fences require some attention, but no major work, restoration or clearance. For example the trees might need trimming, some repairs might be required to the walls or fences, and/or the memorials may not have been assessed recently or are known to include some which need to be made safe.
Poor	The churchyard requires capital investment or essential repairs or restoration work.

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COPY TO SOUTH STAFFORDSHIRE DISTRICT COUNCIL

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Part B(ii)

Notice of intention to apply to transfer maintenance responsibility

(To be sent to the appropriate District council)

~~At the event that~~ ^{was} an Order in Council ~~is~~ made to discontinue burials ~~in~~ on

18th May 1881 [copy enclosed] in Kinver St Peter churchyard,

Kinver St Peter Parochial Church Council

hereby gives notice of its intention to request

Kinver ~~Town~~ / Parish council ~~or parish~~

~~meeting~~ (delete as applicable) to take over maintenance responsibility for the churchyard in accordance with the provisions of section 215 of the Local Government Act 1972

This is being brought to your attention as under s.215(3), if a request to take on the maintenance of a closed churchyard is served on a parish or community council or the chairman of a parish meeting they may decide, within three months of that notice, to give written notice to the council of the district of their intention to pass on the responsibility to that council.

Signed (Secretary of PCC): MMM Date: XXX

B1 The grounds for closure* are because (PCC to ✓ as appropriate):

- a) There is no proper room for new graves.
- b) Further burials would be contrary to decency.
- c) Discontinuance of burials would prevent or mitigate nuisance
- d) Further burials would constitute a health risk
- e) Other

The closure order was made on 18th May 1881
 Additional information regarding the reasons for discontinuing burials is / is not attached
 see enclosed order copy and map

* Grounds (a) to (d) have been agreed by the Ministry of Justice, Church of England and local government representative organisations as potential grounds for justifying closure.

B2 The churchyard contains (PCC to ✓ as appropriate):

- war graves
- earth graves with space for the burial of additional family members
- vaults/walled graves with space for additional burials
- graves reserved by faculty

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B3	<p>The overall condition of the churchyard is:</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 5px 0;">Fair</div> <p>NB: Please use one of the definitions provided below.</p> <p>Further information covering the churchyard's pathways, walls and fences, memorials and trees is set out in the attached document.</p>
B4	<p>Does the Council have any objections to the closure of the burial ground, on the grounds given above at B1:</p> <p style="text-align: center;">Yes <input type="checkbox"/> No <input type="checkbox"/></p>

Please now return this form to the Parochial Church Council explaining, if necessary, why it is considered that the burial ground should not be closed under the grounds at B1.

Definitions for overall churchyard condition for Question B3.

Good	The churchyard is in an acceptable condition for the maintenance responsibility to be transferred now. The trees, walls and fences are in a reasonable state of repair, and the monuments have been assessed for safety within the last 2 years.
Fair	The churchyard and/or the trees, walls and fences require some attention, but no major work, restoration or clearance. For example the trees might need trimming, some repairs might be required to the walls or fences, and/or the memorials may not have been assessed recently or are known to include some which need to be made safe.
Poor	The churchyard requires capital investment or essential repairs or restoration work.

AT THE COURT AT WINDSOR,

The 18th day of May 1881.

PRESENT,

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL.

WHEREAS by an Act passed in the session of Parliament held in the eighteenth and nineteenth years of Her Majesty's reign, intituled "An Act further to amend the laws concerning the burial of the dead in England," it is, amongst other things, enacted that it shall be lawful for Her Majesty, by and with the advice of Her Privy Council, from time to time to postpone the time appointed by any Order in Council for the discontinuance of burials, or otherwise to vary any Order in Council made under any of the Acts recited in the said Act, or under the said Act (whether the time thereby appointed for the discontinuance of burials thereunder, or other operation of such Order, shall or shall not have arrived), as to Her Majesty, with such advice as aforesaid, may seem fit:

And whereas an Order in Council has been made directing the discontinuance of burials in the churchyard herein-after mentioned from the time specified in such Order; and whereas it seems fit to Her Majesty, by and with the advice of Her Privy Council, that the time for discontinuing burials in the said churchyard be postponed:

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NOW, THEREFORE, Her Majesty, by and with the advice aforesaid, is pleased to order, and it is hereby ordered, that the time for the discontinuance of burials in such churchyard be postponed as follows, viz. :

In the parish churchyard of Kinver, in the County of Stafford, to the 30th day of June, 1881.

C. L. PEEL.

