

**SOUTH STAFFORDSHIRE COUNCIL**

**OVERVIEW AND SCRUTINY COMMITTEE - 25 JULY 2023**

**CLOSED CHURCHYARDS REVISION OF SPECIAL EXPENSE DECISION**

**REPORT OF COUNCILLOR KATH PERRY M.B.E - CABINET MEMBER FOR COMMUNITY SERVICES.**

**PART A – SUMMARY REPORT**

**1. SUMMARY OF PROPOSALS**

- 1.1 In October 2019 Members approved that a special expense could be charged to residents in a parish where a closed churchyard has transferred to South Staffordshire Council or any churchyards that transfer in the future.
- 1.2 It is proposed that in light of the current inflation and cost of living pressures the residents of South Staffordshire are facing a revised approach to financing works within a close churchyard is implemented.

**2. RECOMMENDATIONS**

- 2.1 That Members consider the Proposed Decision attached in Appendix 1 regarding the revision to the 2019 decision made on this matter.

**3. SUMMARY IMPACT ASSESSMENT**

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
		These proposals will have a direct link to the Council Plan priorities within 'Vibrant Communities' by helping provide a quality environment that we can all be proud of.
	Has an Equality Impact Assessment (EqIA) been completed?	
		Yes
SCRUTINY POWERS APPLICABLE		Report to Overview and Scrutiny Committee.
KEY DECISION		No

TARGET COMPLETION/ DELIVERY DATE	August 2023	
FINANCIAL IMPACT		<p>The decision implemented in 2019 was undertaken to reduce the long-term financial risk to council for the inherited cost of maintenance and major repairs within a closed churchyard. By applying a 'Special Expense' under Section 35 of the Local Government Finance Act 1992. These costs would then be chargeable directly to the council taxpayers of the relevant parish and would not impact on the councils' budgets or its ability to provide its current service provision by funding works to assets the council does not own.</p>
LEGAL ISSUES		<p>All transfers of closed churchyards take place under Section 215 of the Local Government Act 1972.</p> <p>Under the Burial Act 1853 (section 1), a churchyard belonging to a Church of England church, may become closed by an order in council which is sought by the Parochial Church Council (PCC) from the Ministry of Justice. Essentially a church will apply to 'close' a churchyard (or in some instances, a set area within a churchyard) when it becomes full and they are no longer accepting new burials on the site. Once a churchyard is closed (or part closed), the responsibility for ongoing maintenance of the site can initially be passed onto the relevant parish council who may accept or decline this responsibility. If the parish do decline, then this responsibility for maintenance is transferred to South Staffordshire Council. This transfer is compulsory, not dependant on the condition of the churchyard in question, and nor dependant on the council's ability to meet this increase in maintenance costs.</p> <p>During the transfer of any closed churchyard to the council under section 215 of the Local Government Act 1972, best practice suggests that the onus is on the PCC to ensure that the churchyard is 'in decent order and its walls and fences in good repair' before maintenance passes to this council. However, there is currently little in the way of a legal basis to ensure that this is the case. In order to minimise the inherited risk to this council, we commission an initial series of professional reports to identify any remedial tree works, and structural / buildings</p>

		<p>works that are necessary to bring each closed churchyard site up to a 'safe' standard.</p> <p>The council has a legal duty under the Health and Safety at Work Act (1974) to ensure so far is reasonably practicable, the health and safety of members of the public using our portfolio of open spaces.</p> <p>The Occupier's Liability Act (revised 1984) requires that people can expect to be 'reasonably safe' when using any of the open spaces that we manage.</p> <p>As 'occupier' of a closed churchyard, this council therefore has a duty of care to members of the public using / visiting the site.</p> <p>Section 35 of the Local Government Finance Act 1992 provides that the Council can impose a Special Expense on Council Tax.</p>
OTHER IMPACTS, RISKS & OPPORTUNITIES		<p>Mitigate the risk of danger from 'unsafe' structures within by providing a mechanism whereby necessary works can be financed quickly.</p> <p>Risk of potential fallout with the public and residents of parishes regarding the implementation of a special expense.</p> <p>Covering the costs of any major structural repairs in a closed churchyard may cause an unacceptable increase in council tax to a particular parish in any one year. The council could consider a cap of these charges or alternatively recharging of costs could be spread over a period up to a maximum of two years.</p>
IMPACT ON SPECIFIC WARDS		<p>Potential district wide issue in the years to come as more churchyards 'close' and are passed to South Staffordshire Council.</p>

## **PART B – ADDITIONAL INFORMATION**

### **4. INFORMATION**

- 4.1 It is proposed that in light of the current inflation and cost of living pressures the residents of South Staffordshire are facing a revised approach to financing works within a closed churchyard is implemented.
- 4.2 This proposed Cabinet Member Decision is being referred to Overview and Scrutiny Committee on a voluntary basis in order to allow all members to scrutinise and comment on this proposed decision.

**5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION**

An Equalities Impact Assessment has been undertaken and is available as a meeting document for members to view.

**6. PREVIOUS MINUTES**

None directly applicable.

**7. BACKGROUND PAPERS**

October 2019 Individual Member Decision.

**8. APPENDICES**

Proposed Individual Member Decision

**Report prepared by: Assistant Director Community Services**