

## THURSTON PARISH COUNCIL

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The following paper is submitted to the Parish Council for the meeting of 7<sup>th</sup> October 2020 to consider the request for funding from the Parish Council to the PCC – Agenda Item 11f refers.

Questions posed to the PCC in email of 05.08.2020

The areas in which the Parish Council seeks clarification are as follows:

1. If the Parish Council are to jointly or even fully fund the role of Editor, it is assumed that there will be an agreed (PCC and PC) Advertising Policy for the contents of advertisements that will be accepted.
2. In light of the above, it is assumed that any final decisions on content will be a joint decision between the prevailing Vicar and Chair of the Parish Council.
3. The Parish Council, in accordance with its donation policies and to ensure that all projects supported are viable, requests sight of the latest accounts for the production of the newsletter.
4. Given the growth of Thurston and being mindful that three of the sites under construction will have occupants before the end of the year, can the Parish Council have clarity as to how the increased circulation will be handled. It is anticipated that growth patterns will be as follows: 2020 + 200 dwellings; 2021 + 400 dwellings; 2022 + 600 dwellings; 2023 + 800 dwellings; 2024 + 1000 dwellings.
5. As the Local Government Act 1894, expressly prohibits councils from spending any money on maintaining or improving church property, will the PCC agree to ensure that at all times the accounts for the newsletter are set up in a separate bank account and are to be used at all times for the production of the Thurston Newsletter and for no other financial purposes.

A response has been received from St Peters PCC (27.08.2020) the contents of which are repeated below:

*“Luckily two things have occurred since Vicky’s email of 5th August. The first is that we have found a new Editor for the Newsletter who is starting this coming weekend and the second is that yesterday evening we managed to hold a short PCC meeting to discuss the way forward with the Newsletter. The points in Vicky’s email had been circulated earlier and were already well known.*

*After a robust discussion it appeared that there were two strongly held views, one was that the Parish Newsletter had to stay in all respects under the control of the Parish Church, while still open to advertisements from local businesses and articles from the Parish Council, the College, and other community organisations as before. The other was that the Parish Newsletter was too valuable to the whole community to risk it folding due to lack of funds and the PCC might have to agree to most of Vicky’s 5 points in order to ensure some support from the Parish Council. These two views unfortunately appeared irreconcilable.*

*Finally, following a discussion led by Rev’d Manette, the PCC unanimously agreed to a different perspective on the matter. We would like to put to the Parish Council that it might see the Parish Newsletter as a Community Project which it could donate to as it does to other Community Projects. In fact, yesterday afternoon just before the meeting I had received a request from Vicky to let the*

*Parish Council have 20 copies of the Newsletter to distribute to people moving into the newly built houses. This will be done, of course, and the PCC felt this request illustrated that the Parish Council recognises the value to the community of the Newsletter. It is a community project which of course benefits, to some extent, the Parish Church which founded it, edits it and arranges for it to be printed and distributed, but equally it benefits the community as a whole who value it and want it to continue because it keeps all residents up to date with what is available to them locally.*

*This year, due to Covid-19 precautions, St Peter's has very reduced opportunities to raise funds even to the level it has been able to in the past, let alone to pay for extra printed copies of the Newsletter for all the new families coming to live here. So the proposal now is to ask the Parish Council to give an annual donation to the community project of the Parish Newsletter to make sure it can continue to provide all the residents of Thurston with the benefits they currently enjoy from it. The amount of the donation could be reviewed on an annual basis and a separate bank account would be set up to deal with the money from the advertisers and pay the costs."*

Council is requested to consider the above at its meeting on 2<sup>nd</sup> September 2020 and should note the following:

Legal Topic Note from the National Association of Local Councils (NALC) – L01-18 – Financial Assistance to the Church discusses this matter and states that the 1894 Act prohibits 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. It notes that the question often asked is whether that prohibition still applies or is it overridden by legislation made after the 1894 Act.

By means of a summary, NALC states that there is no current case law to resolve the question of whether or not the 1894 act restrictions override provisions contained in later Acts of Parliament and ultimately it would be for the courts to determine the extent of any prohibition from the 1894 Act.

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

The exact wording of L01-18 Legal Briefing on Financial Assistance to the Church can be found here:

[https://thurstonparishcouncil-my.sharepoint.com/:b:/g/personal/info\\_thurstonparishcouncil\\_gov\\_uk/ERRRDPX0wPdLuEx7NfzQQfEBz4A8ZyImulbK7G5BuRqYEQ?e=kOk8kL](https://thurstonparishcouncil-my.sharepoint.com/:b:/g/personal/info_thurstonparishcouncil_gov_uk/ERRRDPX0wPdLuEx7NfzQQfEBz4A8ZyImulbK7G5BuRqYEQ?e=kOk8kL)

For Information:

*Maintenance of Churchyards*

*As Suffolk Association of Local Councils (SALC) has previously advised, the Local Government Act 1894, for example, expressly prohibits councils from spending any money on maintaining or improving church property. In practice this includes the church building itself, the churchyard and the church hall.*

*In this instance, the situation is complicated by the fact that subsequent legislation appears to contradict the earlier 1894 Act. For example, s.214(6) of the Local Government Act 1972 permits a parish council to contribute towards the expenses incurred by any person in providing or maintaining a cemetery and s.215 of the Local Government Act 1972 permits a parish council to maintain a closed churchyard.*

*Whilst it is widely accepted now that a parish council can legally maintain a closed churchyard there remains a difference of opinion amongst some legal professionals over whether a parish council is permitted to maintain or contribute to the maintenance of an open churchyard. The debate being does s.214(6) of the Local Government Act 1972 override the provisions of the 1894 Act?*

*Current guidance from the National Association of Local Councils (NALC) accepts that in the absence of caselaw and specific clarification from government there is no definitive answer to the question as to whether a council can legitimately maintain or contribute to the maintenance of an open churchyard. However, as the NALC briefing says, "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".*

*SALC therefore continue to recommend that any councils considering giving financial assistance to a church should contact SALC for specific legal advice.*