

# Fen Ditton Parish Council (FDPC) v2

## Proposed Management of Fen Ditton Closed Churchyard

Date: April 2016

A formal written request dated 27<sup>th</sup> February 2015, has been received from the Fen Ditton PCC for the local authority to take over responsibility of the Closed Churchyard at St Mary the Virgin in Fen Ditton as defined under the Local Government Act 1972 s215 (The Act)

The letter indicates there are two differences of opinion in the details of the transfer of responsibility.

1. FDPC research and subsequent decision at special meeting on the 17<sup>th</sup> January 2015 is that there is no evidence that formal transfer of responsibility as required under The Act has taken place in the past. While the opinion of the PCC is that some form of transfer has taken place and that this is therefore not a transfer but a resumption of responsibilities under The Act.
2. There is a difference of opinion and advice being received on the requirement of the condition the Churchyard wall at the time of transfer of responsibility. The FDPC's advice received is that the wall must be in good condition before a transfer can take place and this remains its position following the January special meeting (NALC Legal Topic Note LTN65 June 2014). While the PCC is of the opinion that the transfer should take place whatever the condition.

Both parties retain their respective positions but propose a compromise in order to move forward with the transfer of responsibility.

### Proposal 1

The Parish Council (PC) accepts the compromise on any Wall repairs as detailed in the paragraph titled Closed Churchyard Wall.

Note: The PCC has not seen the details of this document which expand on their offer of compromise on the Wall repairs and continuation of routing maintenance. The 40% figure is an interpretation of “significant” and can be adjusted as the council sees fit at this stage.

### Proposal 2

This document does not in any way restrict the PC from making adjustments to the maintenance plans for the closed churchyard at any time in the future or its option to re-assign the space as per the Open Spaces Act 1906 et al. (See Guide for Burial Ground Managers).

### Proposal 3

Once passed at a PC Meeting this document as amended and/or approved at said meeting will form the basis of a contract to be agreed with a contractor which will be for a 3 year period. Addition and minor amendments are permitted in this process. Any material changes must be approved at a PC

meeting.

#### Proposal 4 (Placeholder)

In the event the PCC/Church continues to derive an income from the sale of Burial Plots for Ashes or memorial plaques a significant proportion (90%) of the income should be handed over to the Parish Council to go towards future maintenance costs. As without this in place the local residents are in effect subsidising the Church which is not the intention of The Act.

### **Plan Outline Proposals**

1. The PC accepts the responsibility for the closed churchyard as required under The Act, which will take place on the 27<sup>th</sup> May 2016, the transfer date.
2. The PC will fund the routine maintenance to a Set Standard as detailed below which may be raised following consultations with local residents
3. The PC may contract out some or all maintenance to the PCC or another contractor of it's choosing at any time (subject to contract), subject to a minimum notice period to be mutually agreed.
4. The PC may choose to supplement maintenance work by volunteers at any suitable time.
5. The PC does not accept responsibility for for any work as a result of Church or other events.

### ***Closed Churchyard Wall***

The issue of the condition of the churchyard wall will be ring-fenced until the costs to bring it up to a good condition are quantified.

The PC will undertake repairs it sees fit after taking professional advice and the PCC will make a significant contribution to the costs incurred within a 5 year period. Significant not being less than 40% of the costs or commitments incurred within the 5 year period. Costs incurred include all related costs for example surveyors, and assessors.

The PC may at any time suspend any non-safety related work in the event of non-payment by the PCC or any other commitments from grant providers at its discretion.

The PC may apply for grant funding to assist with repairs to the closed churchyard wall, which will reduce the required contributions from the PC and PCC pro-rata.

### ***Routine Maintenance***

From the transfer date the PC will undertake all routine maintenance and running costs of the closed churchyard as required by The Act.

The PC will decide on a Routine Maintenance Plan (The Plan) to achieve a set standard which may include a wildlife area. The Plan is detailed from page 5.

At its discretion the PC may contract some or all of the maintenance work to the PCC, and may decide to reassign the contract at any time to obtain the best price for taxpayers. The contractor will have to comply with the routine maintenance plan to set the minimum standard and overall aim of the plan.

In the event the PC decides to appoint another contractor it will provide the work schedule to the PCC to allow for conflict planning and will where possible avoid any planned events by the church. It is recommended that the PCC provide the Clerk with a schedule of events but the PC cannot guarantee in any way that a conflict may not occur from time to time.

The standard to which the closed churchyard is maintained will be at the discretion of the PC and generally be in line with the standards applied to the FDPC cemetery, hereafter called the Set Standard. However, the PCC (or other contractor) may elect to improve on the Set Standard utilising their own resources as long as the additional work fits in with the aims of the routine maintenance plan. i.e. the contractor may not remove a planned wildlife area or change the desired look and feel of The Plan.

The PC may at any time co-ordinate the use of volunteer's to assist any contractor or sub-contractor with the maintenance of the closed churchyard to achieve a higher standard that may be otherwise be provided. The notice period will not be less that one month.

The PC will apply to any relevant authority including The Church in relation to the maintenance of the closed churchyard if permission is required at any stage.

## Financing

### Running and sinking fund Costs

Following the Parish Council adopting the Churchyard, as defined in the Local Government Act 1972 s215, a minimum of £4.50 will be added to each householder's precept, increasing in line with inflation from 2017. The aim will be to maintain the Churchyard with minimum funding necessary to keep the site safe and build up a reserve. This may be increased following feedback from the consultation process. The contribution will be reviewed when precepts from the Wing Development householders commence or at the discretion of the parish council.

Notes; £700 pa routine maintenance and £700 to a sinking fund for wall repairs.

As the Church will also be a facility available to the Wing residents, unless this changes, any precept on Wing households will include a contribution to the Closed Churchyard costs

The additional Precept collected will be allocated as follows. 50% to ongoing maintenance and 50% to a sinking fund for future repairs to a max of £10,000 (adjusted for inflation at 2016 equivalent) after which the precept will be reduced if ongoing maintenance costs permit.

Following a handover of maintenance responsibilities as defined in the Local Government Act 1972 s215, the Parish Council will instruct a suitably qualified surveyor to report on the condition of the Closed Churchyard Wall every 5 years (or sooner if evident from visual inspection), following which it may undertake any necessary maintenance and/or adjust the

sinking fund requirements.

Following the acceptance of responsibilities the Parish Council applies to South Cambridgeshire District Council for a financial contribution. See NALC Section 7

Proposed Questions for residents consultation.

Proposal 7 from the 19<sup>th</sup> January 2016 meeting

1. Due to the financial implications for all Fen Ditton residents it is proposed that before any final decision is made the following proposals are only recommendations pending a full consultation with residents by the end of June 2016

In light of the response from the PCC with an offer to continue organising the routine maintenance of the closed churchyard it is proposed, that the approved Proposal 7 from the 18<sup>th</sup> Jan be extended as follows.

### **Draft Text of Consultations**

Please note that the PC like all local authorities, has no option but to accept the burden of the costs for maintaining the Closed Churchyard as it is one of the duties outlined in The Act 1972 s215. Our decision are mainly on the standard of the maintenance, how we get the best value and lowest cost for the local taxpayers.

Would you prefer to see the Closed churchyard maintained to:

1. Basic safe standard with a focus on low cost. For example Band D may increase from £66.88 to £71.38.

OR

2. Higher standard with more frequent grass cutting etc. with the additional cost added to the precept (part of your council tax bill). For example Band D may increase from £66.88 to £76.38.

Do you think any upkeep above 'basic' standard should be done by volunteers (as is currently done at the cemetery in Church Street)? Would you volunteer to help with this?

Would you prefer to see the Closed churchyard WALL maintenance to:

3. Basic minimal safe standard with a focus on low cost.

OR

4. Higher standard with more frequent maintenance with the additional cost added to the precept, which could be significant?

Do you have any other suggestions or comments? (Note that 'do nothing, pay nothing' is not an option: there is a duty to keep the churchyard safe. Even if the Parish Council were to pass that duty on to the District Council, they could still charge the work back to the parish, and the parish would have no say in what work was done or how it was carried out.)

Note the format will be adjusted as required following the meeting. Proposed closing date ??/??/2016

## **Management Plan for Closed Churchyard on Church Street, Fen Ditton**

This plan is designed to achieve the Set Standard and will be used as the basis of a contract with contractor(s) The timing of the maintenance work may be at the discretion of the main contractor but subject to best efforts in avoid scheduling conflicts with other parties

Where additional cost is incurred due to enhancement to the maintenance level specified by the management plan, this cost will *not be incurred* by the Parish Council without prior approval. Wherever possible the Parish Council will seek to utilise organisations and methods of maintenance that are cost effective such as the use of the probation service and voluntary groups.

Any management plan will be designed to meet the council's commitment to biodiversity and any contractor will be required to follow this plan unless notified otherwise.

The biodiversity of a closed churchyard will actively be encouraged by utilising the knowledge and expertise of the Conservation Councillor/advisor to ensure that where practicable, adopted churchyards are managed as an rural environment in accordance with the Biodiversity Action Plan.

The PC does not accept any responsibility for repairs due to damage caused by the installation of Memorial Plaques on or in the closed churchyard after the transfer date.

Contractor must submit invoices for all work at a period of not more than one per month.

	Area of Maintenance	Standard
1	Grass Cutting	Grass cutting will be carried out on the basis of 15 cuts per annum. Where there is a specific reason to reduce the number of cuts per year such as where areas are set aside for the growth of wild flowers to encourage biodiversity, this will be incorporated into the management plan.
2	Hedgerows	Hedgerows will be clipped biennially (every 2 years) unless there is a legitimate need to undertake further maintenance such as the intrusion of the hedgerow onto a footpath or highway which introduces an unacceptable risk on public safety.
3	Trees	The council's tree officer will be responsible for the supervision of all work relating to trees. Only emergency tree work to take place during the nesting season. Trees will be maintained to a minimum standard to prevent further decay through disease and/or personal injury to the general public.
4	Boundary Maintenance	Vegetation likely to cause damage to the boundary wall or boundary wall or impede inspection must be managed sensitively so as not to cause further damage to the wall at least on an annual basis
5	Boundary Repairs	Boundary walls and fences will only undergo repair and maintenance where it is perceived by an appointed surveyor of the parish council that failing to do so may cause a

		significant risk to public safety or failing to do so will result in a disproportionately higher cost being incurred at a later stage.
6	Headstones & monuments	Memorial Safety tests will be carried out as part of a five year rolling programme of memorial testing. Any found to be dangerous will be cordoned off, secured or laid down depending on the severity and nature of the damage. All memorial testing will be carried out by competent persons in accordance with recognised national guidance from the Ministry of Justice.
7	Pathways, roads and hardstandings	Pathways and other hard standings will be maintained and repaired only where there is determined by the Parish Council to be a risk to personal safety. Paths and walkways will undergo 2 sprays per annum with a weedkiller.
8	Buildings & other structures	Buildings and other structures will not be transferred as part of the closure of a churchyard, and the Parish Council accepts no responsibility unless passed by a special resolution of the council.

Note: to avoid any scheduling conflict the Church and/or PCC are advised to inform the Contractor of events in advance who will try to work around any conflicts subject to contract. The PC or its contractors do not accept any responsibility for conflicting schedules, as the PC's priority is to provide the best service to local taxpayers.

#### Additional Proposal(s)

1. Due to likelihood of damage to the boundary wall no further holes will be permitted to be drilled into the wall for any purpose other than required for repairs of existing furniture (gates etc.)
2. The PC will not fund any costs involved in upkeep of areas used as a “memorial wall” (including ashes) or surrounding areas, the costs and administration are entirely for the PCC.
3. The PC does not accept any responsibility for additional maintenance, clear up costs etc, as a result of Events held in the closed churchyard. In the event additional work is required as a result of any Event the Event organiser will be charged for the additional costs unless the event is considered open to the public and the additional costs have been pre-approved by the PC.

References:

Guide for Burial Ground Managers;

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/326370/burial-ground-managers.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/326370/burial-ground-managers.pdf)

Ely Guide

21 The practical effect of the transfer of the functions and liabilities of the PCC with respect to the maintenance and repair of a closed churchyard to the local authority is that it **is for the local authority to decide how and when and by whom the work shall be done**. This of course does not preclude a mutual arrangement between the local authority and the PCC whereby the latter voluntarily undertakes some “extra” work in the churchyard such as the planting of bulbs or flowers, care of particular memorials etc.

<http://www.elydiocesanregistry.co.uk/neon/download/file/churchyards/closedchurchyards.pdf>

Link to Background Document as adopted in a special meeting 19<sup>th</sup> January 2016

<http://fenditton-pc.org.uk/userfiles/files/meetings/reports/20160127-15-37.Churchyard%20Jan2016%20reportv1.4.pdf>