



Spinaway, Wootton Road,
Tiptoe,
Lymington
SO41 6FU

Clerk/RFO to the Council: Susan Brayley
Tel No: 01590 681228
Email: parishclerk@copythorne.org.uk
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To All Councillors,

Please see attached the covering letter for the grant application for St Mary's Church. The letter refers to not receiving a grant from the Parish Council since 2013. The Parish Council has, in fact, made two grant awards to the church since that date: one in 2016 and the most recent for £250 in May of this year.

Also attached is a briefing note from NALC regarding financial assistance to churches. This clearly states that awards may not be made to any religious body for items purely for religious purposes.

Regards
Susan and Suzanne

St Mary's Church
Copythorne

[REDACTED]

3rd August 2018

Parish Council Grant Application

Dear Susan

I am applying for a grant on behalf of St Mary's Church to help us with our Project to replace our "30 year old Hymn books" with new ones.

The council last made a grant of £250 in 2013 when we re-roofed and completely insulated and redecorated the Church. Since then we have replaced our old oil fired heating system with a new mains gas boiler and improved insulation. We have also renewed our old driveway and all the paths leading to the Church. Funds are now at a low ebb and this year we are struggling to meet our parish share.

We would very much appreciate your support on this occasion as we endeavour to raise the funding for this project.

Yours sincerely

[REDACTED]

David Finch

PCC and Fabric Committee



Spinaway Wootton Road
Tiptoe
Lymington
SO41 6FU

Clerk to the Council: Susan Brayley
Tel No: 01590 683660
Email: clerk@copythorne.org.uk
Website: copythorne.org.uk

GRANT APPLICATION FORM

I/We wish to apply for a Parish Council grant.

1. Name of organisation ST MARY'S CHURCH COPYTHORNE
Address C/O DAVID FINCH, [REDACTED]
[REDACTED]
Telephone Number [REDACTED] E-mail [REDACTED]

2. Person to contact concerning the application, if different from above
Name AS ABOVE
Address
Telephone Number E-mail

3. Description of project and the needs it will serve (use separate sheet if necessary):

OUR PROJECT IS TO REPLACE OUR 30 YEAR OLD HYMN BOOKS
WITH NEW UP TO DATE BOOKS THAT WILL CONTAIN SOME NEW HYMNS
AS WELL AS OUR TRADITIONAL FAVORITES. WE HAVE A STRONG
CHOIR WHICH HAS GROWN AND DEVELOPED UNDER OUR ORGANIST
AND MUSICAL DIRECTOR - THEY PLAY AN IMPORTANT ROLE IN OUR SERVICES,
RECITALS AND CONCERTS. WE PLAN TO BUY 80 COPIES WITH WORDS ONLY
12 " WITH MELODY
15 " WITH FULL MUSIC

4. Estimated cost of project £1500 15 15

5. Proposed date of project AS SOON AS WE HAVE FUNDS BEFORE DEC. 2018

6. Membership details: Adult () , Junior () , Family () in number

WE ARE A SMALL PARISH CHURCH SERVING THE NEEDS OF 6 COMMUNITIES WITHIN OUR
PARISH - COPYTHORNE - BARTLEY - CADNAM - NEWBRIDGE - OWER & WINSOR

7. Finance: Please supply a copy of your latest audited accounts and balance sheet.

Signed .. [REDACTED]

Capacity PCC & FABRIC COMMITTEE Date 3-8-2018
ST MARY'S CHURCH

CHOIR LEAFLET ATTACHED

31 JANUARY 2018

L01-18 | FINANCIAL ASSISTANCE TO THE CHURCH

Introduction

The purpose of this briefing is to consider whether a parish council or, in Wales, a community council may provide financial assistance to the church (or other religious bodies).

Relevant legislation

s.6(1) (a) of the Local Government Act 1894 ("1894 Act") transferred powers from the Vestry and Churchwardens to the newly formed parish councils **"except so far as relates to the affairs of the church or to ecclesiastical charities."** s.6(1) (c) of the 1894 Act confirms the powers, duties and liabilities conferred on parish councils include "the holding and management of parish property **"not being property relating to affairs of the church or held for an ecclesiastical charity"**.

S.8 of the 1894 Act gives parish councils further powers including the power "to execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of the powers in s.6 , **"not being property relating to affairs of the church or held for an ecclesiastical charity"** and further "to contribute towards the expense of doing any of the things above mentioned, or to agree or combine with any other parish council to do or contribute towards the expense of doing any of the things above mentioned". It should be noted that the prohibition relates to the nature of the property concerned not to the use to which that any funding will be put. Thus funding to make a church hall suitable for meetings of the guides and scouts is still prohibited because the building is church property.

Despite references in the above provisions to parish councils, the 1894 Act applies to both England and Wales.

The powers in the 1894 Act prohibit 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. The question often asked is whether that prohibition still applies or is it overridden by legislation made after the 1894 Act. Examples of such legislation are:

- s.214(6) of the Local Government Act 1972 ("the 1972 Act") which provides that councils which are burial authorities may contribute to another

- person's expenses (e.g. the PCC or synagogue) in providing a cemetery in which residents in the council's area may be buried.
- s.215 of the 1972 Act permits a council to maintain a closed churchyard.
 - s.137 of the 1972 Act which allows a council to incur expenditure for any purpose except one which is subject to a statutory prohibition, restriction or limitation.
 - s.138B of the 1972 Act empowers a parish council to support or facilitate a religious event.
 - The General Power of Competence in s.1 of the Localism Act 2011 ("the 2011 Act") is available to eligible parish councils that satisfy the conditions in Parish Councils (General Power of Competence) (Prescribed Conditions) Order 2012/965.

NALC's views

There is an accepted legal principle, applied by the courts, which is that in interpreting what an Act of Parliament means, a specific provision overrides one of a general nature. In other words, if two statutory provisions are in conflict or overlap, the detailed provision will prevail over the more general one. In applying this principle, NALC's views are as summarised below.

Ss.137 and 138B of the 1972 Act and s.1 of the 2011 Act constitute general provisions and do not override the specific prohibitions in s.8 of the 1894 Act. S.137 expressly provides that expenditure cannot be incurred purposes which are subject to a statutory prohibition, restriction or limitation.

S.2 of the 2011 Act confirms that the general power of competence does not allow an eligible parish council to get round any statutory prohibition, restriction and limitation which existed before the general power was introduced.

S.214(6) of the 1972 Act which permits a council as a burial authority to contribute to the expenses of anyone else providing a cemetery, appears to overlap with the specific provision in s.8 of the 1894 Act which prevents a council from contributing to the affairs of the church and, in NALC's view, the specific provision would prevail.

S.215 of the 1972 Act is a specific provision in respect of the responsibilities of a council (whether or not a burial authority) to maintain a closed churchyard which, in NALC's opinion, thus overrides the prohibitions in ss. 6 and 8 of the 1894 Act.

Summary

There is no current case law to resolve the question of whether or not the 1894 Act restrictions override the provisions in later Acts of Parliament and ultimately it would be for the courts to determine the extent of any prohibition from the 1894 Act. Any court action started so as to resolve this point is likely to be expensive and time consuming.

It would, of course, be possible for Parliament to clarify the point with a specific provision in new legislation, however, 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.

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