

Thorpe St Andrew Town Council
Minutes of the meeting
held on 12 November 2018 at 7.30pm

72 Present:

Mr J Fisher	(Town Mayor)		
Mr P Berry	Mr J Emsell	Mrs J Fisher	Miss S Lawn
Mr I Mackie	Mrs T Mancini Boyle	Mr L Reeves	Mr N Shaw
Mr S Snelling	Mr J Ward		

Apologies:

Mr F Bowe	Mr N Hancock	Mr R Robson	Mr D Sears
-----------	--------------	-------------	------------

In attendance:

Dr T Foreman (Town Clerk)	Mrs D Matthews (Committee Officer)
Mrs J Fenn (Deputy Clerk)	

Father James, Sgt Youd and PC Brandon of Norfolk Constabulary, 1 member of the public and the press

73 DECLARATIONS OF INTEREST IN ITEMS ON THE AGENDA

Member	Minute No & Item
All Town Council members currently serving as District Councillors	79 Transfer of the maintenance of the closed churchyard including walls and fences under s215 of the Local Government Act 1972 (non-pecuniary interest)
Cllrs S Lawn and J Emsell	80 Vane Close Car parking (residents of Vane Close)

74 MINUTES

The minutes of the meeting held on 8 October 2018 were agreed and signed as a true record.

75 ANNOUNCEMENTS

The Town Mayor thanked all those involved in the fireworks event and the Remembrance service activities. These events had been some of the best yet, with high attendances and very positive feedback. The Remembrance march on the morning of the 11th had been particularly poignant and he thanked Cllr Snelling, the Royal British Legion, the standard-bearer and Father James for their contributions to the day's events. It was estimated that 80+ people had attended the beacon lighting in the evening, which was to be welcomed. He also thanked Thorpe Players for hosting their Remembrance performance and for donating the proceeds (around £300) to the Royal British Legion.

The Town Mayor went on to report that the Highways Authority would be attending to the issue of the dip on Yarmouth Road the following week and invited councillors report any issues with blocked gulleys to the Highway Authority.

The Town Clerk expressed his appreciation of the efforts of all involved in recent events organised in the Town of which the Town should be very proud. He was particularly proud of how officers, councillors and volunteers had worked together to

make this year's fireworks event so successful and he thanked the Police representatives for providing a presence at the event. The transfer of ownership of the toilet block on River Green and the transfer of the commuted sum was now complete. He had met with the Planning Enforcement Officer regarding the ongoing issue of 185 Yarmouth Road, and that the Mayor would be representing the Town Council at the forthcoming hearing on this matter. The Clerk commented that a number of meetings with user groups and other organisations had taken place this month.

76 PUBLIC SESSION (limited to 3 minutes per speaker)

It was proposed and duly seconded that the meeting be suspended to allow members of the public to address the meeting.

- (i) Norfolk Constabulary – The Mayor welcomed Sgt Youd and PC Brandon to the meeting. Sgt Youd explained that, following the loss of the PCSO roles in the community, as the newly appointed Community Sergeant, she was keen to re-establish links with the community. She would be co-ordinating the work of 8 beat managers and creating a Local Policing Neighbourhood Team. PC Brandon's beat included Thorpe St Andrew and together they would be collecting data and intelligence on emerging crime patterns and allocating resources to deal with this. PC Brandon commented that he was passionate about the local community and establishing a visible presence in the community. He confirmed that links would be made with the High School and he would be holding "surgeries" at community facilities and premises. It was suggested that he could also make use of Town Council owned premises and councillor surgeries to engage with the public and councillors offered to work with him in any way they could to assist him. The Police representative added that they hoped to attend meetings and Town events regularly and to create a presence in the Town wherever possible. They undertook to liaise with the Clerk regarding attending the Christmas lights event. Members noted the latest crime statistics received from Norfolk Constabulary for the Town. In total, 51 logged reports had been included on the crime system and 143 calls taken by the control room.
- (ii) Members noted the report from Cllr Ward who also reported on the following matters:
- Essential work to replace damaged signs on the Broadland Northway would start in November together with additional works on improving signage, road markings and tree and shrub planting.
 - A unique map for the visually impaired had been unveiled at the Norwich Bus Station providing audible information on services. The map was one of only three in the Country.
 - Four shortlisted options for the Western link of the Broadland Northway had now been published and would be out to consultation from 26 November 2018 to 18 January 2019.
- (iii) Cllr Mackie reported on the following County Council matters:
- The County Council continued to work on reducing its current shortfall in funding.
 - Investments were being made in the provision of schools for children

- with special education needs.
 - Investment was being made into adult social care services, highways and for the Better Broadband for Norfolk project.
 - The outcome of the consultation into the governance arrangements for the Fire and Rescue Service was still awaited.
 - Dr W Thompson would be leaving her role as Managing Director of Norfolk County Council to take up another position in December.
 - The Council would be considering the matter of returning to a Cabinet style of governance in December for implementation in May 2019.
- (iv) Cllr Fisher reported that monitoring / surveying of traffic flow on the Broadland Northway was being carried out. There was an awareness of issues regarding signage.
- (v) A local resident raised the matter of the deteriorating condition of the disused bus shelter near the former Thorpe St Andrew Hospital and if there was anything the Town Council could do to encourage the protection of the building. The Clerk undertook to make inquiries. Reference was also made to the poor condition of the telephone box on River Green and the Clerk undertook to raise this with BT.

Note: Father James was present in relation to item 79 on the agenda and it was agreed that his representations be heard at the time the Council considered this matter – see Minute 79 below.

77 FINANCE

- (i) Payments List – voucher numbers 718 to 856 totalling £45,223.88 were approved and signed.
- (ii) Bank Reconciliation Statement – the statement as at 31 October 2018 was noted and approved.

78 DRAFT MINUTES OF COMMITTEE MEETINGS

- (i) Plans Committee – 15 October 2018 – noted.
- (ii) Finance and Staff Committee – 22 October 2018 – it was noted that there were two recommendations to the Town Council which were detailed later in the agenda (see minutes 82 and 83 below).

The Chairman of the Events and Media Committee expressed her thanks and appreciation to all involved in recent events organised in the Town and stated that work on the Christmas lights event was well underway.

79 TRANSFER OF THE MAINTENANCE OF THE CLOSED CHURCHYARD INCLUDING WALLS AND FENCES UNDER S215 OF THE LOCAL GOVERNMENT ACT 1972

The Members considered the report of the Clerk detailing issues regarding the serving of a notice by the Parochial Church Council of Thorpe St Andrew (PCC) under s215 (2) (a) of the Local Government Act 1972 (LGA) on the Town Council to take over maintenance of the churchyard within three months of serving of the notice, including

all walls, fence and boundaries. The situation was complicated by the collapse of the retaining wall at the churchyard in March 2018. Members attention was drawn to a statement on the website of the Diocese of Norwich that the General Synod Office suggest that PCCs endeavour to give at least 12 months' notice of the serving of such a notice in order to allow parish councils time to make appropriate financial provision. There was also advice that the onus was on the PCC to ensure that any churchyard was in decent order and its walls and fences in good repair before responsibility was passed to the local authority. Attention was also drawn to the provision for a parish/town council to resolve to give written notice to a district council and a PCC that the district take over the responsibility at the expiration of the three months. The written notice had been served on the Town Council on 2 October 2018. The Clerk drew members' attention to a number of areas of uncertainty regarding the current situation. The actual costings for the repair work were unknown and could vary from approximately £25k to a significant cost circa £100k. There was uncertainty regarding the current situation with the PCC insurers and with the professional advice sought by the PCC in relation to the condition of the wall. Such a transfer was not strictly legally dependent on work being undertaken before being transferred but there were arguments in support of this in terms of fairness and reasonableness and a decision to not do so could be considered perverse and judicially reviewable. At this stage, such a course of action would be unaffordable to the Town Council alone but could be a matter for discussion with the District Council. A further issue to be born in mind was the fact that consent for any work to the churchyard and the boundary treatments would need to be obtained from the Diocesan Chancellor who might not be willing to accept a more affordable proposal of repairs. The Town Council's response to the serving of the notice would have been a very different if the remedial works had been undertaken. In any event, it would have been preferable for the PCC to have approached the Town Council to discuss the matter and their intentions prior to the serving of the notice which would have allowed all options to be explored.

The Town Clerk then raised a number of questions with Father James on behalf of members.

Father James confirmed that the collapse of the wall in March was of great concern to the Diocese who had made the decision to serve the notice but he did not believe they could force the PCC to take such action. The decision had not been taken lightly but advice was that this was what should be done. The church insurers had asked in August if the s215 notice had been served and, on being told it had not, they had made it clear it was something the PCC should consider. He commented that the courtesy of offering a 12 month period of notice instead of the 3 months tended to relate to recently closed churchyards and that this churchyard had been closed since 1915 during which time the PCC had born the responsibility and cost of maintenance. The churchyard had been maintained to a high standard during this time and at a cost to the PCC which would have normally fallen to the town/district council or their predecessor authority. Notice could have been served at any time during that period and he did not know why this had not been served before. The legislation was there to facilitate community responsibility for the upkeep of churchyards. Throughout the Country most closed churchyards were maintained by local councils and not PCCs. This particular situation was unusual in that it had arisen so long after the closure of the churchyard and following the collapse of the wall. The Town Clerk commented that his understanding was the courtesy of the 12 month lead-in was to enable local

authorities to make provision for the financial implications of the transfer and that it did not relate to the period of closure of the churchyard.

With regard to the condition of the wall, Father James confirmed that the PCC had been aware for 2/3 years that there was a crack in the wall and professional advice taken at the time was that this should be monitored. However, things had moved very quickly resulting in the collapse of the wall. No work to the wall had been undertaken during this time on the advice given and no remedial work carried out since the collapse. In view of any potential issues of litigation, no further comments were made in relation to the advice given to the PCC on this matter. Father James confirmed that the PCC would be willing to share all reports, estimates and professional work undertaken to date with the Town and District Councils together with any publicly available reports and minutes of PCC meetings since the issues with the wall arose.

The Town Clerk commented that, having regard to any potential for litigation, it would appear to be prudent for responsibility for the churchyard to remain with the PCC whilst this matter was being pursued and, in the interests of the public purse, to pursue this matter before contemplating handing responsibility to the local authority. Father James commented that it was not yet clear how this matter would be progressed and there was a possibility the PCC would not be pursuing this matter. However, in the event of any successful claim, any costs obtained would be passed to the local authority in whose ownership the churchyard had been transferred. A fund raising appeal had been launched for the repairs to the wall which to date totalled £8,000. This might be needed to fund any of the initial costs incurred but any balance could be passed on. No other sources of funding had been investigated as the project was not one which it was felt would be high priority or attractive to funding organisations. With regard to the costs, Father James acknowledged that these could be significant but also, following investigation, they could potentially be a lot less than the costs referred to. The PCC had appointed a project manager from within the Diocese to oversee the matter to help reduce costs. The Town Clerk commented that if transferred to a local authority, the matter would have to be managed in accordance with the necessary regulations and contracts submitted to competitive tender, which could increase costs.

With regard to the situation with the insurers, and why notice had been served prior to receipt of the causation report, Father James commented that the advice they had received was that the transfer option was available to them and they had decided to pursue this. It was put to Father James that, given the situation with the insurers and the absence of the causation report, efforts should have been made to insist on this report before the decision was made to use the s215 option. The insurance inspection had been undertaken in September following the collapse of the wall in March. Father James undertook to chase the insurance company for the report. He added that he was of the view that, if the wall was covered by insurance, the PCC would not pursue the s215 option at this time; this was however a matter for decision by the PCC collectively. He was however not confident about the insurance situation. The insurance company used was Ecclesiastical. It was noted that no approach had yet been made to the owners of neighbouring properties to the wall.

In summary, the Town Clerk commented that, despite a Diocese of Norwich agreement in 1981 that PCCs should give 12 months' notice instead of the legal requirement of 3 months' notice to allow time for financial provision to be made, this had not been done and there was no opportunity for the Town Council to make financial provision for this matter. Ministry of Justice advice was that it was good

practice and fair and reasonable when transferring responsibility once a churchyard had been closed, to ensure that the churchyard and its walls and fences were in good condition. Legal advice was that the decision to transfer the responsibility at the present time with the collapsed wall could be considered perverse and open to judicial review. The Town Council was not in a position, in the time available, to finance the repairs to the wall or a judicial review and consideration could be given to serving notice on the District Council to take responsibility for the churchyard. However, this was not felt to be an appropriate course of action, instead the District Council could be invited to join with the Town Council in exploring the option of a judicial review.

Members of the Town Council then discussed the issues raised. Concerns were expressed that the PCC had taken the easy and premature option of serving the notice on the Town Council when so many issues were outstanding and needed to be considered, including the insurance situation, the professional advice given to the PCC, the position of adjoining neighbours and the fact that any work proposed needed to be approved by the Diocese. It would be unreasonable to expect taxpayers to foot the bill for the remedial works, particularly bearing in mind the assets and operating surpluses available to the Church, compared to the level of funding available to the Town Council. It was disappointing that the PCC had not sought to discuss the matter with the Town/District Councils prior to the serving of the notice and this now added a time constraint to the considerations. It was felt there was scope for a working group of representative of the PCC, the Town Council and the District Council to work together to find a way forward on this matter. Members were not minded to pass the matter to the District Council and felt it was not appropriate to consider funding the repair works from the public purse until all other options had been pursued with vigour. In the meantime, it would be helpful for the s215 notice to be withdrawn pending these further investigations as it would remove the time constraint and retain responsibility with the PCC until such a time as it had investigated all outstanding matters. It would be difficult for the PCC to pursue these matters if the responsibility had been passed to another organisation. It would also give the PCC the opportunity to seek legal advice in the light of the response of the Town Council. There was a consensus that, had the transfer been made with the churchyard and boundary treatments in good order and with a reasonable notice period, the Town Council would have accepted the notice. Members felt there was a strong case for considering a judicial review in collaboration with the District Council.

There was also concern that the continued absence of any remedial work to the wall would allow for its continued deterioration.

It was then proposed, seconded and unanimously

RESOLVED that a decision on the serving of a notice by the Parochial Church Council of Thorpe St Andrew under s215 (2) (a) of the Local Government Act 1972 (LGA) on the Town Council to transfer responsibility for the closed churchyard at Thorpe St Andrew Church to the Town Council be deferred until the next meeting pending the following action:

1. the PCC be requested to investigate the outstanding matter of the insurance situation;
2. the PCC be requested to investigate the outstanding matter of the professional advice given on the condition of the wall;

3. the PCC be requested to investigate the situation regarding the neighbouring properties to the wall;
4. the Town Council to liaise with the District Council to explore options for judicial review of the PCC's actions;
5. the PCC be requested to rescind the decision to serve the notice to allow the above matters to be fully explored.

81 THORPE ST ANDREW REFILL SCHEME

Members considered correspondence inviting the Town Council to consider getting involved in a refill scheme being launched jointly by Broadland and South Norfolk Councils. The aim of the scheme was to encourage local communities to champion the scheme and promote the use of refillable water bottles whilst out and about to reduce plastic waste. Local businesses/community premises would be encouraged to allow the public to refill bottles with water from their premises and display posters/stickers promoting this. The Town Council was being invited to sign up to a memorandum of understanding to commit to the scheme.

RESOLVED to agree to sign up to a memorandum of understanding to commit to the scheme.

82 SIR GEORGE MORSE PARK CAFÉ

Members considered the recommendation from the Finance and Staff Committee to support the proposal for the conversion of the store at Sir George Morse Park into a café with the preferred contractor being contractor A at a cost of £35,875 plus VAT. Details of the project were attached to the agenda. Funding arrangements for the project included utilising the commuted sum received for the transfer of the River Green toilet block (£25k) with a view to income received from rental of the café being used to repay this sum, approximately £5k from the River Green budget and the rest from reserves.

RESOLVED to support the proposal for the conversion of the store at Sir George Morse Park into a café with the preferred contractor being contractor A at a cost of £35,875 plus VAT.

Consideration of the following items was deferred until the next meeting of the Council in December:

80 VANE CLOSE CARPARKING

83 BUDGET 2019/20

FUTURE MEETING DATES

Town Council	3 December 2018
Plans Committee	19 November 2018
Finance and Staff	26 November 2018

The meeting closed at 10:10pm

Signed:

Dated:

DRAFT