

ASHBY DE LA ZOUCH TOWN COUNCIL

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Mr P Stone
Strategic Director of Resources
North West Leicestershire District Council
Council Offices
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29th October 2024.

Dear Paul,

Re: closed churchyards and double taxation.

Following the meeting held at Legion House on Wednesday 18th September and the Town Council meeting held on Monday 14th October 2024 I have been directed to write to you to set out the Town Council's position on the issue of closed churchyards and double taxation.

Background.

As the Town Council understands the position, the District Council as part of the process of setting the 2024/25 budget for special expenses, undertook a 'root and branch' review of all income and expenditure in relation to special expenses. However, apparently this review, and legal advice by Counsel, identified that expenditure in relation to closed churchyards and the subsidy in relation to grounds maintenance at Owen Street Coalville had been "incorrectly" charged as a special expense.

As a result of this review, and the legal advice, the District Council has now decided at the full Council meeting on Thursday 22nd February 2024 to approve an updated 'Special Expenses Policy' (version 2). The effect of the revised policy is to amend its policy to read as follows:

"NWLDC levies Special Expenses in respect of the following services that it has identified are being delivered elsewhere by one or more parish or town councils - within the district:

- Cemeteries and burial grounds
- Closed cemeteries and burial grounds
- Open spaces
- Parks and playgrounds/play areas(including any facilities provided on site);
- Bowling greens and pavilions.
- Events and decoration that make the area attractive to visitors, for example:
 - The provision of floral displays, local events
 - Christmas Lights and Trees
- Maintenance of highway land (including grass cutting and flower beds)
- Recreation grounds



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NWLDC has also identified some services that do fall under the definition of special expenses under the Act but it has resolved to **not** treat them as special expenses, which are as follows:

- Closed churchyards;
- Maintenance of leisure centres and football club pitches;
- War memorials;
- Street furniture (including waste bins, bus shelters and public benches); and
- Urban forests/adventure parks/woodlands.

Those expenses that are not treated as a special expense...shall be charged to either the Council's **general fund or housing revenue account, as appropriate.** [my emphasis].

In other words, the tax payers of the whole district, including Ashby, are now expected to pay for the services detailed above which are no longer considered to be 'special expenses' rather than just the tax payers for the area in which the services are delivered. This is despite the fact that many if not all of these services are already being delivered by hard-pressed parish and town councils who have precepted their local tax-payers to do so.

It is also understood that the District Council's apparent justification for this new approach is as follows:

- "Closed churchyards – due to the nature/cost of maintenance, the [District] Council will be responsible. The cost of liabilities associated with the boundary walls and structures with these closed churchyards can be extremely high and will not be able to be met from the special expense precepts as the increase required to fund from precepts would exceed the Council Tax referendum limits;
- Maintenance of leisure centres and football club pitches – typically used by multiple teams, clubs and community groups and serve a broad range of users and contribute to the overall well-being of the community in the District;
- War memorials, street furniture (including waste bins, bus shelters and public benches), urban forests/adventure parks/woodlands are not local to special expense areas and are for the wider benefit of residents across the district."

It is the Town Council's view that to claim that some or all of these functions are "for the wider benefit of residents across the district" or "contribute to the overall well-being of the community in the District" are, at best, highly debatable, at worst, risible.

It is also noted that "the subsidy in relation to grounds maintenance at Owen Street Coalville has been removed from future Coalville special expense budgets and included in the general fund." Owen Street is apparently the exclusive home of Coalville Town Football Club. Ashby de la Zouch Town Council has been most careful to try and ensure that local tax payers do not subsidise local sports clubs. This does not appear to be a concern for the District Council.

Double taxation.

The National Association of Local Councils (NALC) document: *'Managing Double Taxation a Guide for Local (Parish and Town) Councils and Principal Local Authorities'* (January 2011) is clear that the issue of double taxation should not be swept under the carpet and go unconsidered.

Any decision whether or not to tackle double taxation should be as a result of having considered the local issues. NALC sets out the following five reasons to resolve any potential double taxation:

- **Fairness** – it is inequitable if taxpayers are treated differently for no good reason. Residents in certain areas should not be paying both (in full) for the service in their locality as well as contributing to its provision elsewhere;
- **Accountability** – an often quoted principle is that ‘finance should follow function.’ The organisation responsible for delivering a service – the local council in this case – should also hold the relevant budget. This strengthens democratic accountability by making clear who is responsible for decisions about that service;
- **Sending the right signal** – public policy aims to encourage local councils to expand their role, so that services better meet local needs. However, allowing double taxation to arise discourages local councils from doing just that;
- **Partnership** – it is a practical way in which tiers of local government can demonstrate partnership intent, reaching agreement about concurrent services and their funding;
- **Taxpayer interests** – local Councillors have a legal duty to act in the best interests of their taxpayers. It is argued that this should include considering concerns about double taxation.

In the report to the full District Council meeting on Thursday 22nd February 2024 the following is stated in relation to the issue of double taxation:

“Consideration of the whether an item should be treated as a special expense means that the [District] Council needs to consider the issue of double taxation. Double taxation can occur when residents pay for a service via the parish or town council precept and a proportion of the cost of the same service via their council tax bill, along with other residents.

This is a complex area and there is no single national approach to this as different councils have different powers and responsibilities, and they might provide different levels of service to different areas. Therefore, it is not possible to compare services and costs across different authorities.”

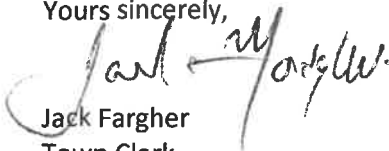
It is also claimed that “the Section 151 officer has taken a balanced approach bearing in mind the [District] Council’s responsibilities, costs, relative impact of double taxation and nature of the services”.

Issues/Conclusions.

- It is not clear what has precipitated this change of policy by the District Council. It is understood that part of the justification for the change is the issue of the boundary wall of St. Michael’s Church in Stretton en le Field. It is claimed that that this wall will need to be repaired and would, therefore, put an undue burden on each council taxpayer within the parish meeting area. No condition survey report on the wall has been provided and no costings have been shared to justify this statement.
- The special expense arrangements have been in place in the district for many years and appear to have been working well. No prior warning or discussion took place with the impacted parish councils before the decision was made.

- The legal advice received by the District Council on this matter [that it may have been acting irregularly or unlawfully in treating some items as special expenses rather than being paid from the general fund] has not been released to elected members or the public.
- No serious attempt has been made by the District Council to address the issue of double taxation and the five principles set out by NALC above.
- No attempt has been made by the District Council to address the issues which underpin the financial relationship between itself and the parish/town sector.
- The justification of NWLDC for its actions to remove areas of expenditure from special expenses and move them to the general fund are, in the view of the Town Council, paper-thin.
- It should be noted that the Town Council has in the last few years invested more than £81k in re-ordering the closed churchyard of St. Helen's Church in Ashby. This work has included landscaping, improved street lighting and street furniture, and external up-lighting to the bell tower. Improvement work has also been undertaken in the closed churchyard at Holy Trinity Church including resurfacing of the entrance driveway. These have been funded by the taxpayers of the town.
- It is the view of the Town Council that the changes to the special expenses regime are unfair, unjust, inequitable, one-sided, unjustifiable and indefensible.
- It is understood that both Castle Donington and Kegworth Parish Councils have now also raised similar concerns to Ashby about the potential impact of this change of policy by the District Council.

Yours sincerely,



Jack Fargher
Town Clerk

Ashby de la Zouch Town Council.