

BRIDGNORTH TOWN COUNCIL
TOWN COUNCIL MEETING
TUESDAY 21 NOVEMBER 2017

AGENDA ITEM: 18

REPORT TITLE: REPAIRS TO MARY JONES BOX TOMB

REPORT AUTHOR: Susan Wilthew, Locum Town Clerk

1. Purpose of report:

Further to the report OPM/06/1718 received at the Council meeting of 16 October 2017, to provide further information on the legal obligations of the Town Council and recommend action for consideration to be taken.

2. Obligation of Town Council to undertake repairs

Acknowledgement is given to Cllr. D. Cooper for initial work on this matter.

It is confirmed that as the Town Council exercises day to day control over the land then regardless of ownership they are legally an occupier^{***}. In general terms an occupier has legal responsibility for ensuring that the land which he occupies is reasonably safe for those people who can be expected to enter it. This is an overriding obligation to those entering the land. The effect of the rules on occupiers' liability and negligence is that a council must ensure the safety of all memorials in burial grounds for which it is responsible. This responsibility exists regardless of ownership or liability to maintain a memorial but extends to safety only and not appearance.

(^{***}NALC Legal topic notes 64 Tombstones and memorials & 65 Closed churchyards and disused burial grounds refer)

The suggestion was made by Council that the descendants of the people who erected the Tomb may be liable for its upkeep, if they can be traced. After this item appeared on the council agenda, the BBC contacted the Rector and asked about the tomb, leading to an article on their website and a television news item. An article also appeared in the Shropshire Star / Bridgnorth Journal.

Cllr. David Cooper previously circulated to all members a link to the BBC item http://www.bbc.co.uk/news/live/uk-england-birmingham-41701198?ns_mchannel=social&ns_source=twitter&ns_campaign=bbc_live&ns_linkname=59eef90be4b079cff57a202c&Centuries_old_tomb_to_be_repaired_-_but_whose_is_it?&ns_fee=0#post_59eef90be4b079cff57a202c.

It can be difficult to identify the current owner of a memorial because of the 100 year period^{**}.

^{**}No memorial, whether on a grave or not, may be placed in a local authority cemetery without the consent of the burial authority (paragraph 1 of part 1 of Schedule 2 to the Local Authorities Cemeteries Order 1977 ("the 1977 Order")). Consent must be for a stated period not exceeding 100 years (article 10 of the 1977 Order).

In this case the tomb appears to have its provenance over 250 years ago. The tomb has stones bearing inscriptions on 3 sides and the top, the 4th side is badly worn and illegible and the top is barely legible. There are various different surnames in the inscriptions and they are presumed to be related in some way. One prominent local name which appears is "Nock." It has been suggested by Cllr. Fox that the Guild of Bridgnorth Freemen may be able to help.

The legislation states that where a council is satisfied that there is no reasonably identifiable owner then it must bear the cost of any safety work. In the absence of an identifiable owner, the council can rely on article 16 (1) (a) of the 1977 Order to carry out further work to a memorial at its own expense, for example, complete restoration or regular maintenance to keep it in an attractive state in keeping with the cemetery as a whole.

The issue was raised of whether the tomb can be laid flat. The Rector has advised that this perhaps could be done, but would require a different Faculty from the Consistory Court of the Diocese of Hereford, which would involve an additional cost and more elapsed time.

Given the location in relation to a Grade II* Listed ecclesiastical building in a Conservation Area, and the significance of this apparently being a surviving historical feature pre - dating the construction of the existing church, Council needs to consider the appropriateness of such a course of action and whether this would be something the Town Council would wish to be seen to be doing.

At this point it is not known whether the Diocese would grant a Faculty.

3. Recommendation

Due to the historic nature of the tomb and possible health and safety implications of its condition it is recommended that:

- I. The Town Council continues to barrier off the tomb to restrict public access.
- II. The Town Council proceeds with repairs in accordance with the permissions granted under the faculty order 29 August 2017
- III. The Town Council consider the quotations received from

McMillan Masonry	£3,360 + vat
Hudson Stonework Ltd.	£2,185 + vat