

Chancel Repair Liability

'What on earth is this?' you may say. Well it is one of the many issues which faced the PCC in Winterton in 2013.

According to the National Archives website:

"Chancel repair liability is an ancient interest benefiting some 5,200 pre-Reformation churches in England and Wales. It allows the Parochial Church Council to require owners of former rectorial land to meet the cost of repairing the church chancel. Under the Land Registration Act 1925, chancel repair liability is classified as an overriding interest in registered land. This means it has been protected even without being registered. Because the chancel of a church was the area where the rector (the parish priest) officiated, the nave being the area where the congregation assembled for worship, the duty of repairing the chancel of an ancient parish church fell on the owner of property attached to the rectory."

As PCC members are bound legally by the same 'fiduciary' duties as the trustees of any charity, their most basic duty is to act in the best interests of the PCC. They are thus under a duty to protect and preserve the PCC's assets. And chancel repair liability is one such asset.

The government decided that from October 2013 the liability will only bind new owners of registered land if it is protected by an entry at the Land Registry. Winterton PCC thus had to investigate if such land existed within the parish. Visits were made to the archive office at Lincoln and a thorough search made of the archives in the church.

The result was as follows. There is a significant area of land in Winterton which is subject to chancel repair liability. So the PCC had to decide whether to register all or just some of this land. The PCC decided not to register any lands which have liability but which are currently in residential use. Only lands not developed for residential purposes were selected in order to ensure that no local householders living in Winterton were likely to find themselves obliged to pay for the liability.

The lands selected for registration are currently used for non-residential purposes. As it happens, none of the owners of these lands is resident in Winterton. The PCC understands that the Land Registry has already notified these owners of the PCC's 'notice of interest' as the registration is called.

Whether or not the PCC ever intends to use this option is impossible to assess. There is no intention by the current PCC to do so as the Chancel does not need repairing at the moment. The recent registration thus simply keeps open the option which a future PCC may or may not decide to exercise. Whether or not they choose to do so will depend on the range of choices they face at that time.

Thus the PCC members have attempted to fulfil their legal obligations but also tried to act in a manner which is as reasonable as possible for Winterton as a whole.