

Executive Member Decision Part A – For Officer Completion

Date

Part ii Part II is confidential – an exempt decision – grounds for inclusion in Part II set out in constitution

Purpose of Decision

To determine which option is approved regarding the structural failure to retaining wall at Exminster Church, as part of the Council obligation to maintain all structures within closed church yards.

Request Officer

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Executive Member

Cllr David Palethorpe

Progress - Report author to complete

- 1 First Draft - **19th December 2025**
- 2 Consultation completed – **13th February 2026**
- 3 Discussion with Executive Member and approved – **16th February 2026**
- 4 Ward member(s) consulted - Date **16th February 2026**
- 5 Chair O&S consulted - Date **16th February 2026**
- 6 MO consulted – Date **16th February 2026**
- 7 S151 Consulted – Date **16th February 2026**
- 8 Check - any objections from 4 - 7 – **16th February 2026**
- 9 Executive Member approval for Consultation with all Cllrs – **16th February 2026**

Democratic Services to complete

- 10 All Councillors consulted – 6th March 2026
- 11 Call in completed – 13th March 2026
- 12 Originating Officer advised – 13th March 2026
- 13 Placed on Web – 16th March 2026
- 14 Signed copy filed – 16th March 2026

1. Proposed Decision

Based on detailed discussions with both contractor and structural engineers there are only two viable options available.

Option One:

- **Scope:** Rebuild the full extent of the affected wall (13.5m) and install drainage weep holes to base of wall to alleviate ground water which has contributed to structural failure.
- **Opportunities:** The entire affected section of wall would be newly rebuilt and structurally secure from the new foundation to the top of the wall. Drainage weep holes would be installed to help reduce the volume of water being retained behind the wall. This option would provide the greatest longevity and ensure the overall safety and stability of the wall.
- **Risks:** The removal of the wall would require a number of ashes to be temporarily removed and reinstated following the rebuild. There is also a high possibility of human remains being encountered during dismantling works, as the contractor would need to excavate slightly into the retained ground to batter the slope back. Historically, many poor individuals were buried in unmarked graves, often located adjacent to boundary walls, which increases this risk.

Access in and around the defective wall is extremely constrained, and the extent of excavation required, along with material storage, would be challenging and would likely cause significant disturbance to nearby residents.
- **In summary this option and provide greater longevity to the structural stability of the wall. It will however present a risk of costs further increasing due to the risk of discovering unknown graves and having to stop works whilst these are relocated. This option will also have a greater impact on residents due to an elongated programme.**
- **Estimated cost:** The cost of this proposal is estimated at £110,000-£120,000. *These figures do not include contingency, risk allowances, or survey fees.*

Option Two:

- **Scope:** Rebuild approximately 6–7m of the wall and install approximately 26 ground anchors to stabilise the remaining affected section and install 26 drainage holes. This option is intended to relieve the wall of the retained water and to stabilise the wall to mitigate the risk of future collapse. This scope is currently with a structural engineer to complete a structural assessment.
- **Opportunities:** The use of ground anchors would significantly reduce the amount of excavation required, shorten construction times, and minimise disturbance to graves.
- **Risks:** The use of ground anchors would require a plinth to be constructed on the wall, which may not be acceptable to the PCC and Diocese due to potential conservation concerns, as it would alter the historic appearance of the wall. In addition, the suitability of the anchors would need to be tested to confirm they are a viable solution in this instance. There is also no guarantee regarding the long-term lifespan of the wall when relying on ground anchors. Previous retaining walls we have used the ground anchors solution on were installed around 10 years ago and are showing no signs of failure.
- **In summary, this proposal is more expensive; however, it significantly reduces the risk of uncovering unknown graves and helps to shorten the construction period on site. This in turn, will minimise disruption to local residents and the**

church. The ground anchors will be installed at predetermined intervals and at approved angles to mitigate the risk of contact with known existing graves. It is therefore our preferred solution, and we would like to proceed on this basis.

Estimated cost: £120,000–£130,000. *These figures do not include contingency, risk allowances, or survey fees.*

2. Recommendation

From discussions with the structural engineers and contractors, we recommend that Option Two is progressed.

- We recommend proceeding with Option Two for the following reasons:
- It causes the least disturbance to the graves and to residents.
- It has a shorter programme duration.
- It secures the wall.

We would therefore ask for £175,000 to cover these works. This figure is inclusive of survey fees, contingency and project risk.

3. Background

On Friday, 19th December 2025, it was reported that the southern retaining wall had collapsed. Following a review of the structure and discussions with a structural engineer, it is believed that the wall failed due to hydrostatic pressure caused by water retention. The excess water infiltrated the sandstone, leaving it weak and saturated, which ultimately led to the failure of the wall. The collapse affected a private road, which was secured on the same day. Since the incident, the Capital Projects team has been working with structural engineers and contractors to develop a practical solution.

There is no formal agreement on record regarding responsibility for maintaining the churchyard. However, commentary from both Teignbridge District Council's legal team, together with comments from the church's solicitor regarding its legal obligations can be found in Appendix A

4. Main Implications

The works need to be completed as there is a high risk of further structural failure to the remaining wall, and risk to life, vehicles, and disruption to graves. The retaining wall requires extensive works to alleviate ground water pressure building up behind it which is saturating the sandstone causing it to weaken the structure. The longer it is left in this condition the higher the risk of further failure occurring. If immediate action is not taken to rectify the defects, then it presents a risk to public safety and therefore result in a reputational risk for the authority

4. Alternative Options

Two options have been proposed, and the Project Team are awaiting structural engineers' approval for the design of the ground anchor system, wall foundation, and block design. Having looked at this with both the contractor and structural engineer it has been determined that only two options are viable. At present, the wall is only supported with a

temporary solution that provides a short-term support to the structure. Bridge Civil Engineering will be carried out further works in addition to those completed to ensure a further collapse does not take place. The cost of the temporary works is £1,270.00 with materials used for providing the support to be reused as part of the permanent solution. This cost undertaking these temporary works have been covered under the Repair & Maintenance budget

5. Justification

Under the Local Government Act 1972 Section 215, a PCC may give notice to the Parish Council requiring them to take over the responsibility of maintaining a churchyard which has been closed by Order in Council. Three months after the giving of the notice, the Parish Council becomes legally responsible for maintaining the churchyard, unless it gives notice under the same Act to the District Council or Unitary Authority, requiring them to take over the responsibility. However, it is normal practice for a PCC to give informal notice twelve months before serving the formal notice.

Historically Teignbridge District Council have maintained all assets in nineteen closed church yards across the district. On this basis it has assumed that the correct closure notices have taken place and therefore it has a legal obligation to carry out these works.

Democratic Services to complete

Decision – Approved

Date of Implementation – 13th March 2026

Call in? No

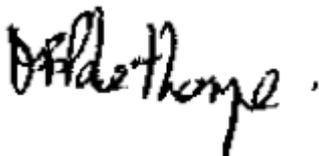
Executive Member Completion

I confirm the decision above

I agree with the justification above

I have no conflict of interest in making this decision having considered the provisions of the Teignbridge Code of Conduct

Signed:



Cllr David Palethorpe

Date: 16th February 2026

APPENDIX A

Teignbridge District Councils Legal Comments

- According to TDC Solicitor Marie Downey, if the Council has maintained the churchyard for around 40 years, it is likely a request was made under the Local Government Act 1972, even if the original documentation cannot be found.
- Stopping maintenance without evidence could expose the Council to legal challenge from the Parochial Church Council or others.
- There is no clear legislation on ending this maintenance duty, so the burden likely remains with the District Council; ceasing maintenance would carry legal risk.
- Paul Woodhead (Head of Legal Services) explains that responsibility normally stays with the Parochial Church Council unless a formal request was made under Section 215 of the Local Government Act 1972.
- If such a request were made and not passed on correctly within the required time, responsibility could transfer permanently to the District Council.
- Once responsibility has transferred, there is no legal mechanism for the District Council to relinquish it.
- Even without records, the Council may be legally estopped from denying responsibility due to its long-term conduct.
- Officers could check with the Parish Council for records, but this is considered unnecessary given the circumstances.
- The eastern wall of the churchyard is at risk of collapse and should be taken down and rebuilt.
- Planning initially indicated a replacement tree should be planted, but due to a new design, no replacement tree is now required.

Diocese Solicitor

- The churchyard at St Martin of Tours, Exminster was legally closed by an Order in Council dated 26 June 1996.
- Closure means no further burials and activates the right under Section 215 of the Local Government Act 1972 for the Parochial Church Council (PCC) to transfer responsibility for maintenance to the parish council, and ultimately to the local authority if the parish council declines.
- No additional agreement or documentation is required beyond the Order in Council.
- Records show that Teignbridge District Council accepted responsibility for the churchyard, including carrying out and funding wall repairs following a collapse in 2010.
- Teignbridge Council has been responsible for maintaining the churchyard since its closure and has acknowledged this duty through its actions.
- The request for further agreements is unnecessary, as the legal responsibility already rests with the Council.
- The letter concludes that the Council cannot lawfully avoid its duty to maintain the closed churchyard.