

Record of Executive Member Decision Taken Under the Scheme of Delegation	On
	19 January 2021

Title	Report of
Closed Churchyard management policy and funding request.	Director of Communities

Is this report confidential?	No
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Purpose of the Report

1. To request approval to spend up to £40,000 from the Council's allocated Capital budget to enable urgent repairs and maintenance at the Churchyard at The Parish Church of St Mary's Penwortham, Church Avenue, Penwortham.
2. To approve the attached Closed Churchyard Management policy to ensure all the closed Churchyards the Council is responsible for are maintained in a safe condition.

Recommendations

3. Approval to spend up to £40,000 from the Council's allocated Capital budget to enable repairs and maintenance at the Churchyard at The Parish Church of St Mary's Penwortham, Church Avenue, Penwortham.
4. Approval of the attached Closed Churchyard Management Policy.

Reasons for recommendations

5. In September 2020 a visit was undertaken to the Churchyard of The Parish Church of St Mary's Penwortham following a request from the Vicar who was concerned about the condition of the Churchyard. During the visit it was identified that many of the headstones were potentially in a dangerous condition and needed on an urgent basis to be made safe.
6. St Mary's Churchyard has been officially closed under the Burials Act 1853 and therefore the responsibility of the maintenance lies with the Council. The

attached proposed Closed Churchyard Policy details the legislation and guidance regarding closed churchyards.

7. The Council employed an independent investigator who is a suitable monumental mason contractor to assess the Churchyard and the safety of the monuments. Their conclusion was that a number of the headstones were in a dangerous condition and must be made safe immediately.
8. Following this inspection several contractors were contacted to quote for the work and the cost of the corrective action was £40,000 approximately. A capital budget has been allocated for the maintenance of St Mary's Churchyard of £30,000 this financial year and £110,000 next.
9. As the Council did not have a policy on Closed Churchyard Maintenance regular inspections had not taken place of the closed Churchyards and therefore a proposed policy is attached for approval.
10. The policy has been reviewed with the Diocese of Blackburn who are happy with the policy. This policy requires annual inspections by a qualified monumental mason contractor to ensure that all dangerous monument are identified and made safe in a timely manner.

Other options considered and rejected

11. Given the urgent nature of these repair no alternatives other than doing nothing was considered. The option of doing nothing was rejected due to the risk management implications.

Corporate outcomes

12. The report relates to the following corporate priorities: *(tick all those applicable)*:

An exemplary council		Thriving communities	
A fair local economy that works for everyone		Good homes, green spaces, healthy places	✓

Background to the report

13. Under section 215 of the Local Government Act 1972, the Council must: "maintain (the closed churchyard) by keeping it in decent order and its walls and fences in good repair" which extends beyond its cosmetic appearance. The Council's duty is of substantive maintenance and not of merely managing decline.

14. The Parish Church of St Mary's Churchyard has not had any substantial maintenance for some time and during a visit and subsequent inspection the Council has identified the need for substantial maintenance on the headstones. Due to the unsafe nature of these stones a decision is needed to undertake the remedial work.
15. As the Council are also responsible for a further two closed churchyards it was felt necessary to ensure that each of the churchyards are inspected on a regular basis. Therefore, a Closed Churchyard maintenance policy is attached that agrees a schedule of inspections, and general maintenance.

Proposals

16. It is proposed to spend the allocated £40,000 from the allocated Capital budget to make safe the headstones in the Churchyard at the Parish Church of St Mary's Penwortham.
17. To approve the draft Closed Churchyard Management Policy 2021 to ensure that the Council continues to maintain its Churchyards by undertaking regular maintenance inspections of the sites.

Risk

18. In assuming responsibility for the maintenance of a closed churchyard a Local Authority assumes liability for public safety in accordance with the Public Liability Act 1951. In 2009, the Ministry for Justice introduced revised guidance for effectively managing the safety of headstones (and other risks) within cemeteries; "Managing the safety of Burial Ground Memorials – Practical advice for dealing with unstable memorials". The Legal Advisory Commission of the General Synod of the Church of England's publication "The Maintenance of Monuments in Closed Churchyards" provides further legal advice on a local authority's responsibility in the policy attached.
19. A duty of care arises in the Occupiers Liability Act 1957 (those lawfully on the land – visitors) and 1984 Act (trespassers). South Ribble Borough Council also has a duty of care to control risks from memorials to their employees, contractors, volunteers and members of the public. Responsibilities are set out in various legislation covering burial grounds, including the Local Authorities' Cemetery Order 1977. Where the operator is an employer, they also have duties under The Health and Safety at Work Act 1974 and associated regulations such as the Management of Health and Safety at Work Regulations.
20. The attached policy has been reviewed by the insurance and risk team with an external review from the Council insurers being undertaken this year.

Equality and diversity

21. None

Comments of the Statutory Finance Officer

22. As detailed in the report this budget is already provided for in the capital programme. The programme will be reprofiled to bring forward £10k of budget from 21/22 in order to correctly reflect this spend in the relevant financial year.

Comments of the Monitoring Officer

23. There are no concerns with the contents of this report from a legal point of view. It is correct that in the described circumstances a council can become responsible for the maintenance of a closed Churchyard. Having a policy setting out how we will fulfil our duties moving forward is clearly sensible. We need to be proactive in this regard.

Background documents

Closed Churchyard Management Policy 2021

Appendices

None

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Following careful consideration and assessment of the contents of this report, I approve the recommendation(s) contained within this report in accordance with my delegated power to make executive decisions.

Signed:	<i>Councillor Sue Jones – signed electronically</i>
	Councillor Sue Jones Cabinet Member for the Environment
Date:	18 January 2021
Publication Date (DSO use only):	19 January 2021 - CL

This decision will come into force and may be implemented five working days after its publication date, subject to being called in in accordance with the Council's Constitution.