



## **BISHOP'S STORTFORD TOWN COUNCIL**

### **CONSULTATION – BISHOP'S STORTFORD CEMETERY**

#### **Background**

Bishop's Stortford Town Council owns, maintains, and is the burial authority for two cemeteries, one either side of Cemetery Road, Bishop's Stortford, Hertfordshire. These cemeteries are the only municipal cemeteries in the civil parish (hereafter referred to as 'the Town') and the only cemeteries in the Town which permit new coffin burials. They are known as the 'Old Cemetery' and 'New Cemetery'. Interments in the Old Cemetery were first carried out in the 1850s; the New Cemetery came into use in the 1940s. The population of the Town is approximately 40,000 and is expected to grow to around 50,000 by 2030.

Burials both of cremated remains and coffins are permitted and a range of styles offered in the cemetery. As at October 2021 the space available for new graves is sufficient to last approximately 10 years at the current rate of purchase, approximately 25 graves per year (a value which has been stable for several years but which may change in light of population growth).

The Town Council has, for some time, been conscious that grave space is limited and has taken steps as are within its existing powers to address the problem. After some considerable investigation the Town Council has concluded that the only practical way to ensure the continued provision of space for burial within its area is to seek additional powers through a private Act of parliament, similar to those acquired by London boroughs authorities in the London Local Authorities Act 2007, and the burial authority for New Southgate Cemetery following the passing of the New Southgate Cemetery Act 2017. Similar powers are currently being sought by Highgate Cemetery's burial authority. The purpose of this consultation is to set out the case for this plan, and seek comments from residents and others. Comments received will be duly considered prior to any final decision to proceed with the promotion of the private Act.

#### **Search for land**

Conscious of the limited supply of space within its existing cemeteries the Town Council sought, in 2016, land within, or immediately adjacent to, the Town for use as additional Cemetery space. No suitable available land was available identified, other than a relatively small plot immediately adjacent to the Cemetery, and owned by East Herts District Council. This land was subsequently acquired (in 2021) and there is now no further land adjacent to the Cemetery which could be acquired for burials.

In September 2021 the Town Council circulated to landowners and estate agents dealing with non-domestic properties a 'call for sites' for suitable land. No sites were forthcoming, an outcome which is not unexpected. Land in and around the town is highly sought after for housing development. The most recent Local Development (District") Plan allocates space for more than four thousand houses and, in order to do this, the Local Planning Authority was forced to re-designate green belt land for housing. In the Council's experience, undeveloped land is unlikely to be released for amenity purposes other than in very special circumstances, unless, for example, it is in or near the flood plain, in which case it would be unsuitable for burials.

The Town Council does own a separate plot of land in the adjacent parish of Little Hallingbury, however this is not considered suitable. It is both outside Bishop's Stortford and outside the County of Hertfordshire. Visitors to this land are made acutely aware of this by 'gateway' signs on the connecting road including one saying 'Welcome to Essex'. It is not within convenient walking distance of town centre nor is it on or near to a regular public transport route. Burials on this land would therefore not meet the expectations of the majority of clients, who would seek accommodation in a cemetery provided in their local area which is conveniently accessible from the Town.

The Town Council is therefore forced to conclude that there is little or no prospect of further land suitable for use as a cemetery coming forward in the foreseeable future.

### **Current alternatives to reuse**

The Town Council has powers under the Local Authority Cemeteries Order 1977 to extinguish (subject to a specified procedure) exclusive rights of burial which were issued prior to the making of the order, were for a period of greater than 75 years (or in perpetuity) and which have never been exercised. These powers have been deployed to the maximum extent possible and the exclusive rights on 47 graves can now be extinguished. However only a relatively small proportion of these will in practice be usable due to the large number of mature trees in the Old Cemetery, where the graves in question are located. New burials must avoid or minimally invade the 'root protection zone' of each tree to ensure that the trees are not damaged. The Old Cemetery is within a Conservation area and the felling of any significant number of mature trees would be highly unpopular, environmentally damaging and damaging to the appearance of the area, and is anyway likely to be resisted by the Local Planning Authority. Based on the average tree cover in the areas concerned, it is estimated that about 25% will be usable, approximately 13 graves.

### **Reuse under existing powers**

Taking the above into consideration it is clear that, if the residents of the Town are to continue to benefit from the availability of burial space within their local area, reuse of land is the only option and the Town Council has therefore been actively exploring this.

Following a change in law in 2015, limited opportunities for reuse became available to the Council. More specifically it became lawful to re-use graves in consecrated land where there was no existing private right of burial (ie 'common graves') provided that a faculty permitting the reuse was first obtained from the Diocese. The Town Council applied for, and obtained, a faculty for the reuse of such graves in the 'Old' cemetery in April 2016 and, subsequent to this, has offered grave space in this area as an option. This option is alongside the availability of graves in the 'New' cemetery which are in previously unused ('virgin' soil). The reuse option has proved popular with many and approximately 23 interments in re-used land have been carried out in the period November 2017 to date. Coffin graves are pre-prepared by excavating and retrieving any remains found, which are re-interred at the lowest level of the excavation before the new funeral party arrives. Records of the remains found are kept. This 'lift and deepen' method is well established and in use in other municipal, ecclesiastical and even private cemeteries.

Unfortunately the number of graves available using these powers is quite limited. Although there are in excess of 3100 common graves in the area to which the faculty applies, the majority cannot be used in practice because of the tree cover mentioned previously. In addition, the presence of even an isolated privately owned grave, unless it has a headstone, creates a sizable 'exclusion zone' in which re-use cannot occur, because it has not been possible to establish precisely the grid on which the existing graves were dug, and it would be all too easy inadvertently to breach a privately owned

grave which happens to be located within an area that otherwise comprises predominantly common graves. Taken together these restrictions mean that only approximately 156 graves can be recovered with the powers currently available, approximately six years supply. The extension of the powers available under faculty to the 'new' cemetery is a future possibility, however the common graves in this area will not become available until the 2050s and the supply is insufficient to meet the expected demand.

Furthermore, relying solely on the powers currently available to the Council severely prejudices the planning and layout of the cemetery and forces the reuse of graves which are much more recent than would otherwise be necessary, because we are limited to common graves in consecrated land and denied the opportunity to reuse graves in un-consecrated land, or graves where the exclusive right of burial was issued in perpetuity, the vast majority of which are never visited by the relatives. Without these additional powers the Council will be forced to consider re-using more recent graves just because they happen to be both 'common' and in consecrated land. This is neither desirable nor sympathetic. Furthermore it will be unable to guarantee a continued supply of graves beyond 2036 or thereabouts.

### **Private Act of parliament**

This situation would be transformed if the Town Council had additional powers which are available to several other burial authorities. The powers in question are exemplified by the New Southgate Cemetery Act 2017 and in brief comprise

- a. The power to extinguish exclusive rights of burial issued in perpetuity or for more than 75 years
- b. The power to disturb human remains and thus to reuse graves (subject to certain conditions) in un-consecrated land
- c. The power to remove memorials from any grave where the powers above have been exercised

These powers can only be exercised in respect of any particular grave provided that no objection is received from the owner of the grave or relatives of any person whose remains are interred, following a period of advertising.

Taken together with the existing power to reuse graves in consecrated land where a faculty has been obtained, these additional powers would provide a supply of grave space for at least the next century and quite possibly and with appropriate management, indefinitely. As importantly, they would allow the burial authority to plan the use of grave space and enable it to reuse the oldest graves first.

Unfortunately the powers concerned can be acquired only through new legislation, in practice a private Act of parliament. The Town Council has the power to promote a Private Act on the basis of its general power of competence under the Localism Act. Such an act grants powers to a legal entity which are not available generally.

The cost of a private Act of parliament is not inconsiderable (in the order of £50,000-£100,000) however when compared to land prices (were land available, which it isn't) this is very modest given the yield. The local market value for land is in the region of £1.7M per ha. Assuming the cost for obtaining a private Act was £75,000, that amount would purchase, just 0.04ha of land, sufficient for just 120 graves. The private Act, on the other hand, would immediately allow space for an estimated 1000+ graves.

Moreover a continuous supply of grave space would become available in time as the currently 'newer' graves age. With careful management it is expected that the new powers will guarantee a sustainable supply of grave space into the 2100s and beyond, quite possibly indefinitely. The acquisition of these powers would enable the necessary

strategic plan to be created which optimises the grave space availability, the amenity value of the cemeteries, and maximises the time elapsed between the most recent interment and any reuse.

There is one further advantage in the acquisition of these powers, namely that it provides a reason to maintain the Cemetery, particularly the 'Old' Cemetery, in good condition and the financial resources to do so. Without the powers conferred by a private act the Cemetery has little economic value and hence it is almost inevitable that its condition will deteriorate given the pressure on funding.

In summary the acquisition, by the Town Council, of powers similar to those granted in the London Local Authorities Act 2007, New Southgate Cemetery Act 2017, and Highgate Cemetery Bill, is a cost effective, sensitive, environmentally sustainable, space efficient and only currently available way of ensuring that burial capacity to meet the demand currently continues to be available in the Town and the Town Council therefore proposes to seek these powers, subject to any comments received and the necessary decision making processes.

### **Consultation Comments**

The Town Council is now seeking comments from residents and other stakeholders on its proposal to seek these additional powers through a private act of parliament. Comments should be sent:

By email to [james.parker@bishopsstortfordtc.gov.uk](mailto:james.parker@bishopsstortfordtc.gov.uk) with the subject line 'Cemetery Consultation'

or by post to

Bishop's Stortford Town Council (Cemetery Consultation), The Old Monastery, Windhill, Hertfordshire.

Comments must be received no later than 15<sup>th</sup> January 2022. All comments received will be duly considered prior to any final decision to proceed with the promotion of the private Act.

Issued by the Chief Executive Officer  
10<sup>th</sup> November 2021