

# Bishop's Stortford Town Council

## Protocol for Grave re-use under the Bishop's Stortford Cemetery Act 2024

Version 1.2  
Consultation version  
28/01/2026



## **Version note**

This version incorporates comments made following consultation with the Diocese of St Albans. It remains subject to modification following consultation with the Ministry of Justice. It is expected that the final version will be published on or shortly after 9<sup>th</sup> April 2026.

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## Background

Bishop's Stortford Town Council ("the Council") operates two municipal cemeteries located either side of Cemetery Road in Bishop's Stortford. The Cemetery to the East is known as the Old Cemetery and that to the West as the New Cemetery. Both have areas of consecrated and un consecrated land. Both also have a mixture of public (common) graves, where the right of burial lies with the Council, and 'private' graves where an exclusive right of burial (ERB) has been granted to a private individual, either for a defined period of time (after which the right reverts to the Council), or indefinitely.

Under the Bishop's Stortford Cemetery Act 2024 ("BSCA2024" or "the Act") the Town Council has powers to extinguish exclusive rights of burial, disturb human remains and remove memorials in order to facilitate the reuse of graves which have been previously used for burial. These powers are necessary to enable the Town Council to continue to offer a burial service in the Town once the very limited amount of 'virgin' ground in the New Cemetery is exhausted. This is estimated to occur in the mid 2030s

The reuse of graves by the 'lift and deepen' method is a well established practice in church cemeteries and is generally supported by the Anglican church. However its use in municipal cemeteries is restricted by law to graves where the ERB lies with the Council, is situated in consecrated land, and where a faculty has been granted by the diocese. BSCA2024 provides the mechanism by which more general reuse (in the Bishop's Stortford Cemeteries) becomes lawful, whilst imposing limitations which protect the interests of living relatives of the deceased and the owner of the ERB<sup>1</sup>. It should be noted that graves may only be reused under the Act when *at least 75 years* has elapsed since the most recent burial, and subject to the protections provided in the Act.

In addition to the powers under BSCA2024 the Council has extensive powers to manage memorials under the Local Authorities Cemeteries Order 1977 ("LACO1977") and a limited power of reuse under a faculty (obtained in 2016) which allows it to disturb human remains for the purpose of reusing common graves in the consecrated part of the Old Cemetery. The latter powers have been in use since 2018 to perform new burials, in a section of the old cemetery where the graves are almost exclusively 'common' and no memorials are present. BSCA2024 supplements (without invalidating) these powers, but does not override the jurisdiction of the Church of England in respect of certain aspects of the use of consecrated land. Thus it will be necessary to apply for one or more faculties in order for certain of the provisions of BSCA2024 to be applied to the consecrated areas of the Cemetery.

In the course of the passage of BSCA 2024 through Parliament an undertaking was made in the House of Lords<sup>2</sup> as follows

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<sup>1</sup> . Some other Cemeteries benefit from similar powers under different legislation and the Government is currently considering whether to make these powers more generally available

<sup>2</sup> The undertaking, which was made for the purposes of Standing Order 130, is recorded formally in Paragraph 451 of [MINUTES OF ORAL EVIDENCE taken before the OPPOSED BILL COMMITTEE on the BISHOP'S STORTFORD CEMETERY BILL Thursday 6 July.](#)

“Prior to the first exercise of the powers, the burial authority will publish a reuse protocol following consultation with the diocese and the Ministry of Justice. This protocol must be substantially based on the City of London cemetery grave reuse protocol and it must identify best practice measures in the reuse of burial spaces that will be adhered to, and identify spacing requirements between reused graves, subject to any modifications which may be endorsed by Defra. In addition, where relevant, in exercising those powers, will follow and implement the technical guidance on the reclamation of graves in local authority cemeteries dated October 2013, or any replacement or modification of 19 that guidance”

This document is intended to discharge this undertaking and set out the protocols to be applied by the Council when graves are reused under BSCA 2024. The City of London Protocol, referred to in the undertaking, is reproduced in Appendix 1.

## **Stages of Reuse**

The reuse of a grave under BSCA 2024 involves several stages as follows

1. Notification/Advertisement of the intent to reuse and receipt and response to any objections
2. Extinguishment of any exclusive right of burial applicable to the grave
3. Management of any Memorial present
4. Excavation of the grave and re-interrment of any remains found, recording
5. Interment of the new coffin(s) or casket(s) and recording
6. Reinstatement or replacement of memorial(s)

Depending on the precise circumstances of any particular grave some of these stages may not apply.

The requirements for stages 1 and 2 are set out clearly in BSCA 2024, and will not be repeated here. This document will deal with stages 3-6.

## **Memorial management**

This section covers the protocol for steps 3 and 6 above.

### ***Introduction***

Memorials present on graves provide an important historical record of the deceased as well as a visual identification of the precise location of a grave. Memorials may comprise a headstone, footstone, kerbing and various other adornments. For the purpose of this document the definition of ‘memorial’ is that set out in BSCA2024.

The upkeep of memorials is the responsibility of the grave owner. In practice the large majority are tended for a period and then eventually left by their owner (who may well be deceased) to deteriorate gracefully as the years pass by. The inscriptions may become illegible and due to natural movements of the ground and other events memorials may tilt or become unstable and even unsafe.

The powers available to the Council under LACO 1977 include those necessary to ensure that memorials remain safe and other powers for the proper management of the Cemetery and the Council will continue to use these for their intended purposes.

Where graves are considered for reuse the following protocols will apply.

### ***Memorials of Special Historical Significance***

Prior to the reuse of any area a survey will be undertaken to determine if any of the memorials on graves which are candidates for reuse have special historical significance. The Local History Society and the District Conservation Officer will be consulted in order to determine whether any memorial should be so designated. If the memorial is of sufficient significance Historic England and other appropriate agencies will also be consulted.

Graves with memorials of special historical significance will be recorded and will not be reused, unless it is determined that the historical interest is best served by the reuse, which may for example involve memorial conservation or relocation, as determined through the consultation.

### ***Reuse of graves with existing memorial(s)***

When a grave with a memorial (other than a memorial of special historical significance) is designated for reuse (and provided any necessary notifications have been given and any objections dealt with) there are three practical options for its management namely:

1. To reuse the headstone in situ (if appropriate following restoration) to record the new interment. Normal practice is to reverse it before adding another inscription; this will be applied unless circumstances dictate otherwise.

This is, in principle, the preferred option, but is only viable both if the new grave owner consents *and* the memorial itself is suitable.

2. To remove the headstone (and/or other elements of the memorial with an inscription specific to the interred) to another place in the cemetery (for example near the boundary, as commonly practised in Church cemeteries). To erect a new memorial if the new grave custodian so wishes.

This is the preferred option if the conditions for (1) are not met, there is a legible inscription relating to the interred and it is both safe and practical to relocate the memorial.

3. To remove the memorial and destroy it

In the event that neither of the above options is practical the memorial will be removed and destroyed.

Current practice is to inscribe the identity (grave reference) of the grave on any newly erected memorial. This will apply wherever a new memorial is erected or an existing memorial retained on a 'reused' grave, in order that the location of both the historical remains and the new interment can be readily determined.

In all cases:

- adornments other than those with inscriptions carrying the name(s) of the deceased or inscriptions directly relating to the deceased, will be removed and destroyed.
- the historic burial records will be preserved, together with a record of any legible inscription on any memorial destroyed, so that no information is lost in the course of reuse.
- the provisions of LACO1977, BSCA2024 and stipulations in any applicable faculty (as applicable) will in addition be followed.

### ***Reuse of graves without an existing memorial***

When graves which do not have an existing memorial are reused, it is necessary to draw a distinction between areas where it is possible to determine the precise location of historical graves, and areas where this is not possible.

Where there is no memorial but it is nevertheless possible to determine the precise identity of the historical grave being reused, then the situation will be treated in the same way as case (3) above.

Where there are few or no memorials in any area of the graveyard (which is the case, for example, in the area designated, at the time of writing, for reuse under faculty), it may not be possible to identify the precise location of any individual grave. This arises because the spacing and alignment of the graves, typically dug around 150 years ago, is not precisely known and in the absence of memorials there are no reference points from which this can be inferred<sup>3</sup>.

In this case the historic burial records will be preserved, so the limited historical information about the location of a particular grave will be fully maintained, however no inscription in relation to the historical identity of the grave will be placed on any new memorial, as this could mislead as to the precise location of any particular historical grave.

## **Excavation and Interment**

### ***Introduction***

This section covers the steps 4 and 5 above. It comprises two parts, namely the considerations for determining the spacing and location of excavations for new interments and the procedure/protocol during excavation, interment of any remains found and the new interment.

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<sup>3</sup> During preparation for the reuse under faculty a team of archaeologists were engaged to research and advise on the practicality of establishing the location of unmarked graves in areas where no memorials were present. Trial trenches were dug and techniques such as ground penetrating radar were tested with the conclusion that, other than by excavating substantially the entire area, which would be both inappropriate and impractical,, it was not possible to establish grave location precisely.

## ***Location and Spacing***

The location and spacing of graves and in particular the relationship between historic and new burial layouts will need careful consideration for each area of reuse. The principles set out in the document Technical Guidance on the Re-Use and Reclamation of Graves in London Local Authority Cemeteries October 2013 (“The Technical Guidance”), the document referred to in the commitment made in the House of Lords, will be followed.

In brief the key considerations are

- Can the location of the historical plots be adequately determined?
- What is the spacing of the historical plots and how does that relate to the minimum spacing now needed to accommodate a coffin burial?
- Are there any requirements imposed by Defra which must be considered?

The latter will be informed by a groundwater risk assessment at the appropriate tier as determined by the studies/advice from Defra, together with any comments or stipulations Defra may make. The groundwater risk assessment will be commissioned, and comments from Defra sought, prior to the reuse of any area under BSCA2024.

### **a) Where the location of historical plots can be determined**

Where the location of the historical plots can be adequately determined, the new interments will be positioned to align with the old plots. Where the spacing of the old plots is insufficient to accommodate new interments, whilst meeting any requirements for spacing imposed by Defra or practical requirements related to soil stability, new plots may be centred on alternate old plots (in either or both directions). There are a variety of possible layouts depending on the precise circumstances, many of which are set out in the Technical Guidance. The principles set out in the guidance will be carefully considered for each area in order to inform the decision. New plots will bear the same identity as the historical plot on which they are centred (with the possible addition of a prefix/suffix) in order that the association can be readily made.

### **b) Where the location of historical plots cannot be precisely determined**

Where the location of the historical plots cannot be adequately determined, the new plots will necessarily be positioned on a grid which is independent of the old plots. The new grid will be at the spacing used for ‘virgin’ graves unless stipulations from Defra, or practical considerations (such as soil stability during excavation) require a larger spacing to be used. The new plots will be identified using a scheme which is distinct from that used for the historical plots, to avoid any possible confusion.

### **c) Exclusion zone where the location of historical plots cannot be precisely determined**

In areas where the location of historical plots cannot be precisely determined there is, in principle, the possibility that an objection will be raised to the extinguishment of an exclusive right of burial or to the disturbance of human remains, under section 4(6a) or 4(6c) of the Act. This is relatively unlikely, but cannot be ruled out.

If such an objection is received (and not withdrawn in accordance with section 4(6)) then an 'exclusion zone' will be designated. This will be of sufficient size that it includes the grave in question having regard to the level of uncertainty in the precise location. Reuse will not take place within the exclusion zone during the period in which the provisions of section 4(6) apply.

### ***Protocol during excavation, re-interment and new interment***

The following protocol, based closely on the City of London protocol (Version 3 as provided by the City of London Cemetery) will be adhered to:

1. All excavations will be undertaken with all due care and diligence due to the likelihood of human skeletal remains being disturbed. Where possible this work will be undertaken before the cemetery grounds are open to the public. On occasions where work needs to proceed during the hours when the cemetery grounds are open, members of the public will be excluded from entering or viewing the working area by appropriate barriers or screening. Grave diggers shall be aware of the need always to maintain dignity in the disturbance of skeletal remains and the potential for visitors attending nearby graves being offended, therefore, work will cease whilst visitors are in close proximity to the grave being excavated.
2. Any disturbance of human remains shall be logged by the gravedigger, and the Cemetery Manager advised. The details recorded shall include the depth at which any remains were found, measured from ground level.
3. Details of the remains found shall be recorded by the gravedigger using a six-point scale as set out below:
  - '0' No remains found.
  - '1' Small fragments of skeletal remains found.
  - '2' Significant skeletal remains found.
  - '3' Significant skeletal remains and fragments of coffin found.
  - '4' clearly defined but damaged coffin and significant skeletal remains found.
  - '5' fully intact coffin found.
  - '6' remains that are not fully decomposed.
4. Where points 5 or 6 on the scale above apply, further excavation of the grave will not proceed. Any remaining depth may be used for burial provided the previous coffin/non-decomposed remains are not disturbed; the grave will otherwise be backfilled.
5. Any grave artefacts found during the excavation will be recorded by the gravedigger together with a brief description of the item found. Any artefacts found (whether or not they have any financial value) shall be reinterred in the same grave after final depth has been achieved, together with any skeletal remains found.
6. All remains that are disturbed will be re-buried in the grave where they were found.

7. All staff required to undertake the excavation of graves in the re-use areas will receive an induction training course ensuring full understanding of this protocol and any other guidance issued in respect of the work required.
8. The Cemetery Manager shall be responsible for ensuring the day-to-day implementation of the re-use work in accordance with this protocol, under the guidance of the Chief Executive Officer.
9. The scheme shall only take place within the designated area(s) as detailed by the grave reuse programme from time to time in place.
10. A photographic record of any significant findings during the programme shall be undertaken.
11. The records referred to above will be transferred to and maintained in the register of burials, which may be electronic or paper based. Electronic records will be adequately backed up. Where it has been possible to ascertain the precise identity of the grave being reused, the records referred to will be associated with/linked to the original grave records. Where it has not been possible to ascertain the precise identity of the grave being reused, the records referred to will be associated with the new grave records.
13. Once the grave has been prepared as set out above, the new interment will proceed, and records kept, in accordance with the practice for interments in 'virgin' graves.

## Appendix 1 – City of London Protocol

The following is the most recent version of the City of London protocol as provided by the City of London Cemetery. It differs slightly from the version reproduced in the Technical Guidance.

### City of London Cemetery Grave Re-use of Private Graves (Lift and Deepen) Protocol – Version 3

1. All excavations will be undertaken with all due care and diligence due to the likelihood of human skeletal remains being disturbed. Where possible this work will be undertaken before the cemetery grounds are open to the public, although there will be occasions, particularly during busy periods, where work will need to proceed during normal opening hours. Grave diggers shall be aware of the need to always maintain dignity in the disturbance of skeletal remains and the potential for visitors attending nearby graves being offended, therefore, work will cease whilst visitors are in close proximity to the grave being excavated.
2. Any disturbance of human remains shall be logged by the gravedigger on the digging papers and the Senior Cemetery Operative advised. The details recorded shall include the depth at which any remains were found (this depth must be measured from ground level).
3. Details of the remains found shall be recorded using a six-point scale (full details set out below). This information will be recorded on the grave digger's interment paper:
  - '0' No remains found.
  - '1' Small fragments of skeletal remains found.
  - '2' Significant skeletal remains found.
  - '3' Significant skeletal remains and fragments of coffin found.
  - '4' clearly defined but damaged coffin and significant skeletal remains found.
  - '5' fully intact coffin found.
  - '6' remains that are not fully decomposed.
4. Points 5 & 6 on the scale above are shown in red as at these points re-use of the grave will not proceed, and the grave will be backfilled. Any remaining depth may be used for burial provided the previous coffin / non-decomposed remains are not disturbed.
5. Any grave artefacts found during the excavation will also be recorded using an asterisk on the grave digging papers together with a brief description of the item found. It is unlikely that any grave artefacts with any financial value will be found. However, any artefacts found shall be recorded and reinterred in the same grave after final depth has been achieved together with any skeletal remains found. This information will then be recorded in a separate ledger.

6. All remains that are disturbed will be re-buried in the grave where they were found.
7. All staff required to undertake the excavation of graves in the re-use areas will receive an induction training course ensuring full understanding of this protocol and any other guidance issued in respect of the work required.
8. The Senior Cemetery Operatives shall be responsible for ensuring the day-to-day implementation of the re-use work in accordance with this protocol under the guidance of the Landscapes Manager. The Superintendent & Registrar shall monitor the programme and undertake ad hoc inspections as he considers appropriate – the findings of which shall be recorded.
9. The scheme shall only take place within the designated area as detailed by the current grave reuse programme.
10. A photographic record of any significant findings during the programme shall be undertaken.
11. The work undertaken and the findings of the scheme shall be reported to BCAG on a half yearly basis.
12. An independent invigilator has been appointed to advise on the implementation of the scheme and to assist with the recording of the findings for research purposes and to assist the development of best practice.

Graham Holmes  
Superintendent and Registrar  
City of London Cemetery  
Date 15/04/2023  
Version 3 date completed.