

The Reuse of Graves

Cemeteries as Sustainable Community Assets

1. Introduction

- 1.1 This paper puts forward proposals designed to address the issues of diminishing burial space, protection of cemeteries landscapes, heritage and biodiversity contained within and the public need for local, affordable burial space.
- 1.2 The key issue is one of sustainability through the selective reuse of graves and should this practice be acceptable to the people of Scotland the long term security and viability (in both burial space and financial terms) of cemeteries will be maintained. This key issue is closely linked to a secondary, important issue relating to affordability for both the public and burial authorities and companies.
- 1.3 Cemeteries have a finite capacity which when reached the income stream ceases. Authorities that provide cemeteries are then faced with the task of establishing new cemeteries at significant capital cost and long-term additional maintenance cost. Authorities that are faced with increased expenditure have the following options open to them:
 - Increase burial fees
 - Reduce standard of maintenance at older cemeteries
 - Increase the subsidy to the cemetery service
 - Cease to provide new burial space
- 1.4 The above points impact significantly on the public who require local, affordable burial space. Certainly within the cities and large towns it might be impossible to locate new sites that are close to the population. Such land would be expected to attract a price that is much higher than the agricultural rate and therefore out of reach of most authorities. The problem of diminishing burial space is not however one that is faced by cities and large towns only. Rural burial grounds tend to have much more community focus and residents may see the establishment of a new rural cemetery as dividing the community. Whilst such rural cemeteries may be small the issues of affordability for the public and authority remain.
- 1.5 The author of this paper has noted that Scottish cemeteries in general are maintained in a respectable condition however it is evident across the UK that old cemeteries that are devoid of virgin ground are given less attention in maintenance terms. This action has in some instances led to an increase in vandalism with such cemeteries appearing unwanted and neglected. The impact on the heritage contained within such cemeteries and their ecological value is therefore of great concern.
- 1.6 One of the conclusions of the Parliamentary Select Committee established in England and Wales to investigate cemeteries was: *“Unsafe, littered, vandalised, unkempt, [many] cemeteries shame all society in their lack of respect for the dead and the bereaved”*.

(A summary of recommendations made by the above mentioned Parliamentary Select Committee is produced in Appendix 1)

- 1.7 A system of selective reuse would effectively transform older cemeteries into sustainable and valuable community assets which could be reused indefinitely thus providing the local, affordable burial space required by the public. By removing the need to construct new cemeteries local authorities would be relieved of the need to seek significant capital funding and would see maintenance costs fixed. The benefits to the bereaved would be immeasurable.

2. The Reuse of Graves – Methodology

- 2.1 At the present time the disturbance of human remains without lawful authority is a misdemeanour therefore a change in legislation will be required to permit the reuse of graves.
- 2.2 The system of reuse, which is most commonly considered in the UK, is known as "lift and deepen". This involves excavating down to any skeletal remains which may be left in a grave after a set period of say 75 or 100 years, placing the remains collected in a small container and re-interring them in the same grave at greater depth, thus making space available for new burials. This method ensures that the remains are relocated in the same grave thus ensuring the integrity of the cemetery records. This method is common in other European countries, and is also practised in Australia. It was also the practice in English churchyards for hundreds of years up until the mid eighteenth century.
- 2.3 The word 'selective' should be added to reuse in order to ensure the protection of heritage. Graves selected for reuse should be in areas where the addition of new memorials will not detract from existing areas of heritage value. Many cemeteries have old public areas where memorials may not exist and transforming such areas into new burial sections will have little impact.
- 2.4 Having said this it is possible to reuse grave in 'heritage areas' where large, elaborate or valuable memorials exist via reusing the memorials. At the present time when a grave and memorial is abandoned the memorial receives no attention and falls into decline by decay. It would appear logical that if the grave is proven to be neglected and abandoned then so is the memorial. Any new legislation introduced to allow the reuse of graves should also encompass any memorial that may be present on the grave and contain safeguards i.e. notification procedure to ensure that no known relatives can be contacted and the grave has been abandoned, time span after the last burial of say 75 – 100 years.
- 2.5 At the present time London has specific legislation that permits the London Boroughs to cancel burial rights previously granted in perpetuity and to use available depth for new burials. The Corporation of London and London Borough of Newham to name but two are currently using such powers and are conducting the notification process in order to provide much needed burial space. The Corporation has also identified 'Heritage Areas' where existing Victorian memorials of heritage value will be adopted by new purchasers of reclaimed graves. These new owners will be permitted to place new inscriptions on the memorials that are in keeping with existing wording. The future of these memorials will be ensured through new focus and interest. (It should be pointed out that memorials of *significant historic value* at the Corporation's cemetery are not reused and are maintained by the authority).

3. Extending the Viability of Cemeteries

- 3.1 Other methods of creating new burial space have been tried in the past such as overfilling cemetery land and reclaiming unused graves and used, abandoned graves that have available depth for burial however these options themselves will not create sustainable cemeteries and will only delay the inevitable. (A survey of a number of cemeteries is underway in order to establish the additional space that can be created through the reclamation of unused graves).
- 3.2 Overfilling cemetery land in order to create depth in which new burials can take place has a detrimental effect on the cemetery landscape and the heritage that should be protected. Other problems created by this practice include the creation of unstable ground conditions with resulting increased risks when excavating graves, undue subsidence over a long period resulting in increased problems with unstable memorials, access for the elderly and disabled and waste control legislation relating to imported soil.
- 3.3 Reclaiming unused private graves does not affect the cemetery landscape however these may be widely dispersed throughout a cemetery. When considering this option it should also be remembered that the introduction of modern memorials into older parts of a cemetery will detract from the heritage value. There would however be a case to reuse old, elaborate and valuable memorials that exist on graves where available depth can be reclaimed. The reuse of memorials (discussed above) links strongly to the ethic of protection of heritage. It could be concluded that the reclamation of unused private graves and old private graves with available depth for new burials is good practice provided that safeguards are incorporated to protect heritage however it should be noted that this option will not create sustainable cemeteries and will only delay the inevitable.
- 3.4 At the present time authorities in Scotland use model management rules that contain a forfeiture clause. This clause states that unused private graves may be reclaimed after a set period and following a notification process. Whilst authorities may make management rules clarification is required as to whether such rules can supersede other legislation. As the rights to a grave form part of the estate of the deceased owner it follows that they must be disposed of in a lawful manner. The legality of the forfeiture clause contained in the model management regulation therefore requires investigation.
- 3.5 In recent years the practice referred to as 'cramming' has become apparent at cemeteries with diminishing new space. This entails the removal of paths, plantings etc in order to use such areas as new burial space. This practice has an adverse effect on the cemetery landscape and heritage and again will only delay the inevitable.

4. Current legislation

- 4.1 At the present time no legislation exists in Scotland that would enable the cancellation of burial rights previously granted in perpetuity. In order that the reuse of graves can be made possible (and in fact the reclamation of unused private graves) legislation would need to be passed. Such legislation would require a notification procedure designed to establish if selected grave have been abandoned and no family interest exists.

5. Safeguards and Control

- 5.1 The sensitivity surrounding the reuse of graves requires the careful consideration of safeguards that could be put into place through licensing:
- **Local consultation** – Legislation to enable the reuse of graves would be optional and not mandatory for authorities and companies and dependent on the results of local consultation.
 - **Conservation Management** – Authorities and companies wishing to reuse graves should draft comprehensive conservation management plans designed to protect and enhance the heritage, landscape and biodiversity contained within their cemeteries. (The Corporation of London has commissioned a conservation management plan which will be converted into a model by the Institute of Cemetery and Crematorium Management for use by all authorities and companies).
 - **Management** – The submission of operational management plans should be a licensing requirement in order to ensure accountability.
 - **Good Practice Guidance** – The industry should produce management and operational best practice guidance that will act as a benchmark for the purposes of inspection or the resolution of disputes or complaints.
 - **Qualification** – The industry should produce a comprehensive training scheme covering all management, operational and conservation issues.

6. Conclusions

- 6.1 The selective reuse of graves is the only mechanism available that will transform cemeteries into sustainable community assets and provide the bereaved with local, affordable burial space indefinitely.

7. Recommendations

It is recommended that:

- 7.1 The Scottish Parliament undertakes a public consultation exercise in order to establish the acceptability of the reuse of graves.
- 7.2 A pilot scheme is established should positive consultation results be obtained.
- 7.3 Enabling legislation should be drafted to include the cancellation of rights previously granted in perpetuity, notification procedure, safeguards and conditions should favourable consultation results be obtained.

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Appendix 1

House of Commons Select Committee Inquiry – Cemeteries

Extract from the Summary of Conclusions and Recommendations

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Internet link to full paper-

<http://www.publications.parliament.uk/pa/cm200001/cmselect/cmenvtra/91/9102.htm>

The following statements, extracted from the report, highlight the significance of the Select Committee inquiry and the beneficial impact that the recommendations will have on the cemetery service in areas of diminishing new burial space.

“Although the desire to bury the dead is now, and has been for some time, a minority choice, we are firmly of the opinion that this preference should be respected”.

“Local authorities will, we suggest, wish to ensure the widest possible access to the option of burial. This means that ways have to be found to ensure that local, accessible burial space is provided. Local authorities should address this need in their Development Plans”.

“We commend those cemetery managers who are looking to improve the service they offer to the bereaved and encourage all those with responsibility for cemeteries to consider further how they can follow their example. This should include ensuring that the public has access to good, impartial advice about the options available to them”.

“There is an increasing public desire for greater memorialisation of the dead which cemeteries, properly maintained and managed, can play an essential role in fulfilling”.

“We recommend that local authorities pay more attention to the cultural significance of their cemeteries”.

“Cemetery managers should evaluate the biodiversity potential for their cemeteries, and where appropriate, and in consultation with local Wildlife Trusts and other interested parties, manage the cemetery accordingly”.

“Management of a cemetery for nature conservation purposes must not become an excuse for neglect”.

“Unsafe, littered, vandalised, unkempt, [many] cemeteries shame all society in their lack of respect for the dead and the bereaved”.

“It is clear that many local authorities need to devote substantially more resources to cemeteries if they are to address seriously the problems which they face”.

“Our society still accords great importance to issues relating to the disposal of the dead. The evidence submitted to this inquiry suggests that this fact has not been sufficiently recognised at senior strategic and executive levels within local authorities. We encourage all those concerned with the provision of this essential local government service to re-examine their attitude towards it”.

“The Government’s ‘hands off’ approach to cemetery provision has given local authorities *carte blanche* to treat cemeteries as the lowest of priorities”.

“We welcome the Home Office Minister’s acknowledgement of the Government’s leadership role, and we look forward to seeing the fruits of central Government’s new attitude to cemetery provision”.

“Research on the provision of burial space nationwide is urgently required”.

“.....that a review of the legislation pertaining to closed churchyards is urgently required”.

“ The ever increasing costs of perpetual maintenance of graves risks raising the cost of burial to an unacceptable level. Crematoria cannot be expected to continue to subsidise cemeteries. A way must therefore be found for cemeteries to maintain a long-term source of income”.

“ We encourage those local authorities who have not already done so to consider whether their cemetery service might best be managed within a ‘Bereavement Services’ or similar department”.

“We welcome the intention of the Institute of Cemetery & Crematorium Management to produce a manual of good practice for cemetery and crematorium managers, and we recommend that the DETR support this project”.

“We therefore recommend that all local authorities conduct their Best Value reviews of cemetery services with reference to ICCM’s Charter for the Bereaved; and that they aim to meet the standards of service set out in that document. Future Best Value Performance Plans should assess performance against these standards”.

“...we recommend that the Audit Commission publish in due course a ‘Lesson from Inspection’ document on cemetery provision”.

“We welcome the Home Office Minister’s recognition of the problem of the lack of properly trained staff for cemeteries, and we look forward to speedy Government action to remedy the situation.

One of the first tasks of the Government’s new advisory group should be to develop guidelines on the basic training needed for cemetery managers, drawing on the work already done by The ICCM, and to disseminate these guidelines across all burial authorities, particularly the smaller ones. It should carry out further research into where the training deficit is most serious, and recommend appropriate policies for addressing the problem. In particular, the advisory committee should consider whether it is necessary to specify minimum levels of training or qualification for cemetery managers”.

“ We look forward to the speedy establishment of the Government’s advisory group, which should at the earliest opportunity communicate to all burial authorities in the country its existence and expertise and the help it is able to offer. We recommend that it take on immediately the tasks of dissemination of good practice, setting of standards and development and dissemination of guidelines on basic training. The advisory committee should urgently investigate the case for its replacement by a standing inspectorate, and the possible scope and size of such an inspectorate”.

“Whilst we recognise the importance of ensuring that unsafe memorials do not cause any further deaths or serious injuries, we believe that the Health & Safety Executive should act with greater sensitivity towards the historical and cultural significance of such memorials. We recommend that the HSE have urgent discussions with English Heritage regarding memorial safety, and that it ensure that its inspectors are fully aware of the heritage and amenity value of cemeteries when taking decisions about enforcement action”.

“The Government should make available special funds for selected programmes of renovation of unsafe memorials. Access to these funds should be conditional on the development of detailed management plans for the site in question”.

“We recommend that, wherever possible, comprehensive management plans be drawn up for individual cemeteries. The Government’s new advisory group should produce and disseminate guidelines for cemetery managers on how this should be done”.

“If the public are to continue to have access to affordable, accessible burial in cemeteries fit for the needs of the bereaved, there appears to be no alternative to grave reuse. The Government’s consultation paper on the reuse of graves – which we understand is now also to include a number of other matters relating to cemetery provision – should therefore be issued as soon as possible. If the Home Office require further research before commencing this already long-delayed consultation, it should specify exactly what is required and ensure that it is carried out speedily, with due regard for the consequences of further delaying a resolution of this matter. For the reasons stated above, and assuming that the necessary safeguards are included, we are ourselves of the opinion that legislation should be introduced allowing burial to take place in reused graves”.

“A complete review of the law relating to burial and cemetery management, including churchyards, is required”.

“We recommend that the Government’s new advisory group carry out this review and make recommendations for appropriate rationalisation and improvement of the law relating to the disposal of the dead. Once this is complete, it is imperative that legislative time be found for the necessary changes, and we shall be following progress in this regard closely”.

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<http://www.parliament.uk/commons/selcom/etrahome.htm>

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