

	Environment Committee 11 January 2017
Title	Addressing limited burial capacity at Hendon Cemetery and Crematorium (HCC)
Report of	Commissioning Director for Environment
Wards	HCC is in Mill Hill and provides a service to residents across all wards.
Status	Public
Urgent	No
Key	No
Enclosures	Appendix 1 – Evidence of limited space available at HCC Appendix 2 - Process for implementing the re-use of Graves and engagement with users and stakeholders Appendix 3 Residency criteria for the pre-purchase of graves. Appendix 4 Revised and modernised rules and regulations for Hendon Cemetery and Crematorium.
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Summary

This report highlights the shortage of new burial space at HCC; Given the current burial rates, burial space is more than likely to be exhausted within the next 2 to 3 years. Should an agreed solution not be forthcoming, the impact will be that the Council will no longer be able to offer burial plots to Barnet residents and a further impact on the Council's budget and income required to run the existing service. It will also impact on further projected increased income, the details of which are set out in this report.

The recommended solution and way forward for member consideration and agreement, set out in this report focuses on :

- Utilising statutory powers to reclaim and re-use very old graves, strictly following existing London policy, guidance and procedure
- Continuing the current Council policy of providing a Cemetery Service for Barnet residents with a further paper submitted at the March 2017 Environment Committee meeting setting out the options available

- Increasing the premium for pre-purchase graves for **non-Barnet residents** to enable an increase in the remaining space available to Barnet residents

Recommendations

- 1. That the Environment Committee notes the evidence in appendix 1 demonstrating that HCC is running out of new burial space and that population changes will increase demand going forward and note the financial impact set out in 1.10 of this report.**
- 2. That the Environment Committee approves the re-use of graves at HCC as set out in Appendix 2.**
- 3. That the Environment Committee agree to extend the existing policy of providing cemetery provision for Barnet residents and to direct that a paper will be submitted to the March 2017 Environment Committee setting out the options for consideration.**
- 4. That the Environment Committee approves the increase in the pre-purchase premium for grave purchases for non-residents from 40% to 50% taking into full consideration the definitions of residency as set out in Appendix 3 and to implement the change forthwith.**
- 5. That the Environment Committee notes the 2017 Hendon Cemetery Rules and Regulations set out in Appendix 4.**
- 6. That the Environment Committee agree commissioning for recommendations 2 and 3 be delegated to the Commissioning Director for Environment, and be subject to the agreed commissioning arrangements in place.**

1. WHY THIS REPORT IS NEEDED

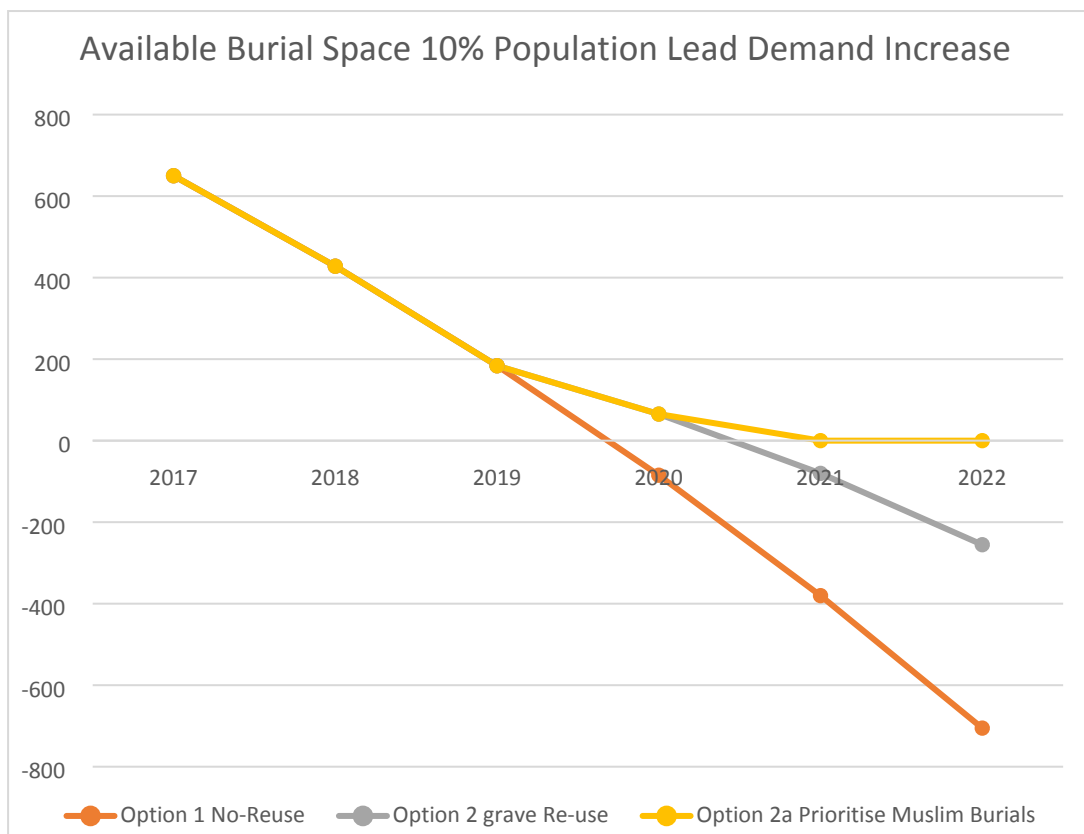
- 1.1 Remaining burial space at Hendon Cemetery and Crematorium (HCC) will run out within the next 2-3 years. This assessment is based on the current demand for graves and the full use of land traditionally set aside for burial.
- 1.2 If a solution to address the lack of capacity is not agreed, HCC will be full and have to be closed, other than for additional burials into existing family graves. The Crematorium will be unaffected by the capacity issues and will remain open.
- 1.3 Burial provision is an essential service for the community; therefore, ongoing burial provision for Barnet residents needs to be considered.
- 1.4 HCC has an open parkland appearance which hides the fact that there is very limited availability of new burial space, that combined with an increasing and ageing population compounds the pressure on space.

Appendix 1 evidences both the lack of space at HCC and the projected population numbers and profile for the HCC catchment area.

1.5 Graph 1 below shows the projected capacity and year that burial space will run out depending on each option proposed in this report. The calculations assume a 10% increase on demand up to 2022 as the population in Barnet rises. Additional calculations taking into account a 0% and 5% increase are contained in appendix 1: The graph highlights:

- If no action is taken, HCC will run out of burial space in mid-2019
- If grave re-use is agreed, HCC will run out of burial space by mid-2020
- Specific faiths have a requirement around how their deceased are buried. Muslim burials require virgin land and will not be able to use the graves that are re-used. Taking this into consideration and where grave use has been agreed, HCC will run out of burial space in 2022

Graph 1: Projections of when burial space will run out



- 1.6 Population projections indicate that Barnet's population will actually rise by 25% by 2041 and the population of those over 80 years of age will more than double in the same period (see appendix 1 for details)
- 1.7 The NHS Actions for End of Life Care: 2014-16 which sets out NHS England's commitments to end of life care for adults and children states; "In England approximately half a million people die each year. The number is expected to rise by 17% from 2012 – 2030", this will undoubtedly further increase pressure on burial space. There was an 8% increase in the number of deaths in England & Wales 2014 and 2015 and an increase of 9% in London in the same period (ONS). Approximately 74% of those resulted in cremation and 26% in burial.
- 1.8 The estimate of remaining burial space in paragraph 1.1 is the best available for identified virgin burial ground. HCC on average undertakes some 250-300 burials per annum, but this has been as high as 380. If burials remain at the lower end of the average there will be 3 years space left from January 2017. The ability to be more specific becomes difficult as capacity reduces and annual trends become more irrelevant; monthly fluctuations in burial numbers becoming a key factor.
- 1.9 It must also be noted that local Funeral Directors, many of whom are family businesses and have been coming to HCC for many years, are aware of the capacity issues and so demand for graves is likely to accelerate as families wish to ensure they are buried in the same cemetery as their relatives.
- 1.10 Financial impact – based on current figures for burials, fees and charges.
- Only 650 New Burial Spaces remaining at HCC.
 - Only 3 years (or less) usage left at HCC
 - If no action is taken, burial revenue will be reduced by a minimum of £800k
- 1.12 At the Environment Committee in November 2016, the Committee deferred a decision on the recommendation to increase the premium for pre-purchase graves by non-Barnet residents, pending further clarification of the conditions relating to who is eligible for the residents rate. Appendix 3 of this report provides the clarification requested.
- 1.13 The HCC Rules and Regulations require updating to bring them in line with the Institute of Cemetery and Cremation Management (ICCM) Charter for the Bereaved. The revised HCC Rules and Regulations are attached as Appendix 4.

2. REASONS FOR RECOMMENDATIONS

Impact on local residents

- 2.1 It is common practice for Cemeteries to charge higher rates to non-borough residents and reduced charges to resident within the borough. If we do not address the lack of available burial space in HCC, Barnet residents will be faced with paying a premium of between 35% & 60% above those fees currently charged at HCC to bury their loved ones in a non-Council owned cemetery. Table 1 below provides a comparison of rates.

Table 1: Comparison of cemetery rates for Barnet residents

Cemetery	Cost of grave space for immediate use including first interment*
HCC(residents rate)	£2995.00
St Pancras (Islington & Camden) (Non-residents rate)	£4030.00
Mill Hill (Westminster) (Non-residents rate)	£4818.00
Carpenders Park (Harrow & Brent) (Non-residents rate)	£4255.00
	*lowest available price

Increasing the pre-purchase premium for graves purchased by non-Barnet residents

- 2.2 This is recommended to potentially slow down the pre-purchasing of the current available burial space by non-Barnet residents, therefore enabling some increase in available burial space for Barnet residents who will continue to pay the lower rate.

Utilising the powers provided under the Re-use and Reclamation of Graves in London Local Authority Cemeteries (2013) and supporting policy and guidance provided in appendix 2 of this report

- 2.3 The re-use of private graves is generally considered by industry experts to be the most sustainable option to keeping a cemetery open and financially viable. Reclaiming and re-using graves (where burial took place over 75 years ago) in HCC would marginally increase the time that HCC could continue to operate as an active cemetery at current levels of demand
- 2.4 If grave re-use is agreed, it is estimated that approx. 400 to 500 graves could be eligible to be reclaimed per annum at HCC, however, there are lots of graves that are not eligible for reclamation for a number reasons, therefore in reality as few as 150 graves may be reclaimed at HCC per annum.

- 2.5 This option would increase the time that HCC could continue to operate as an active cemetery, however, it will not meet the current rate of demand and certainly will not meet the future demand in a growing population.
- 2.6 Grave re-use is not generally acceptable to the Muslim faith; in addition the reclaimed grave would have to be correctly aligned with respect to Mecca it is therefore likely that the Muslim community will be excluded from future burials at Hendon and therefore become an equalities concern.
- 2.7 Re (regional Enterprise) are contracted to manage HCC on behalf of the council. Should the re-use of graves be approved, it will be necessary to commission Re to implement the process required to re-use graves as this is currently outside the scope of the current contract between the council and Re. Although the burials taking place as a result of this process are within the scope of the existing contract.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 An alternative to the recommended options is to take no action and to close HCC to new burials within 2 to 3 years. This is not recommended as it will deprive Barnet residents of the ability to have new burials close to other family graves. They would also have to seek burial space in cemeteries outside of Barnet at greater cost to them.
- 3.1 Graves are purchased by families and therefore generate an income for the council, some of which is depended on to run the service itself and maintain the site. Taking no action to maintain a supply of new burial space will impact upon Council revenues and the service budget.
- 3.2 There would be a negative public perception should Barnet run out of burial space and potential equalities impact, with Barnet's Muslim residents unable to access the service.

4. POST DECISION IMPLEMENTATION

- 4.1 Following approval of recommendation 2 of this report (recommending grave re-use); the Commissioning Director for Environment will commission Re Ltd to implement the process of grave reclamation. To ensure statutory and policy compliance, specifically consultation and engagement, Re (Regional Enterprise) Ltd will be instructed to follow the London Environmental Directors Network (LEDNET) Technical Guidance on the Re-use and Reclamation of Graves in London Local Authority Cemeteries (2013).
- 4.2 A report providing options to enable the Council to continue to provide a burial provision to Barnet Residents will be submitted to the March Environment Committee.

5. IMPLICATIONS OF DECISION

- 5.1 **Corporate Priorities and Performance**

- 5.1.1 Extending the burial capacity at the cemetery enables the Council to address the shortage of remaining burial space and is an opportunity to improve the quality of the Council's Bereavement Service. It aligns with corporate priorities; to deliver this service efficiently and to maximise value for money for the tax payer. It will capitalise on the opportunity to regenerate HCC making it a first class facility. It will encourage more users to the cemetery and will contribute to the Councils priority of ensuring the Green Spaces are amongst the best in London.
- 5.1.2 This report has also highlighted that the burial service generates local income for the council. This income supports delivery and further development of the service and is in line with the corporate strategy i.e. generating local income to enable the Council to be more financially independent and grow our local services.

5.2 **Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

Recommendation 2 – to approve the re-use of graves at HCC as set out in Appendix 2

- 5.2.1 This recommendation will provide additional income, to aid the guaranteed income which RE are required to deliver for the Council. It is estimated that an additional 1 FTE Bereavement Services Officer will be required to be employed by Re to administer the reclamation and re-use of graves. Indicative cost is estimated to be £35,000, and this is expected to be a cost for between one, and one and a half years.
- 5.2.2 Additional costs will also be required to undertake consultation, advertising and additional ground works to implement grave re-use. The implementation plan will include the estimation of costs. These costs are not currently quantified, but are not considered significant.
- 5.2.3 The precise arrangements for funding these costs will be agreed via the delegation referred to in Recommendation 6.

Recommendation 3 – options for extending cemetery provision

- 5.2.4 The closure of HCC to new burials (from 2019) would impact upon Re's ability to generate the guaranteed income contained within the Re contract; this is estimated at a minimum of £800k. The recommendation, if agreed, would address this issue.

Recommendation 4 – to increase the non-resident premium for grave purchases

5.2.5 This recommendation would either increase guaranteed income, or promote more use by Barnet residents.

5.3 Legal and Constitutional References

5.3.1 Section 25 of the Burial Act 1857 makes it an offence to remove buried human remains from un-consecrated ground without a licence from the Secretary of State.

5.3.2 In the past, private graves have been purchased to accommodate two or more coffins. Many such graves have not been fully utilised, in that subsequent burials have not taken place in them. In these circumstances it is possible to extinguish burial rights under Section 9 of the Greater London (General Powers) Act 1976 and reclaim the existing unused space and make the grave available for re-sale. The Act contains a notification process so that any relatives that come forward can retain their rights to their particular graves should they so wish.

5.3.3 The Greater London (General Powers) Act does not provide authority to disturb human remains, however the Act allows the re-use of unused space and graves where the last burial took place at least 75 years ago and where there is sufficient space for one or more further burials. To date, this process has not been adopted at HCC.

5.3.4 Authority to disturb human remains has been provided to local authorities within London by Section 74 of the London Local Authorities Act 2007 (LLAA 2007). Section 74 sets out how London local authorities can reclaim and reuse existing graves where the burial authority has extinguished a right of interment in respect of Section 9 of the 1976 Act above. Section 74 (LLAA 2007) also removes the requirement to obtain an exhumation licence from the Ministry of Justice. The criteria for which graves may be reclaimed under the LLAA 2007 are the same as for the 1976 Act.

5.3.5 The above legislation contains a requirement to obtain the consent/approval of the Church of England where reuse of consecrated areas is intended. The Church has taken a relaxed view of the reuse of graves so far in London and their consent has been given to the City of London, Enfield and Westminster to date. However, it has been confirmed with the Diocese that HCC has no consecrated sections or land and so there is no need to obtain a church consent.

5.3.6 All applicable burial legislation contains 'savings' for the Commonwealth War Graves Commission and therefore graves in the ownership of the Commission, or graves where war casualties were interred will not be reused. Officers would need to notify and liaise with the Commission should the Council decide to embark on the reuse of graves. Some graves contain war casualties but have no standard Commission headstone. As a result of such

consultation, the Commission will be able to identify these graves at HCC so that such graves can be avoided.

5.3.7 In addition, the Local Authorities Cemeteries Order 1977 (LACO) authorises local authorities to reclaim rights in reserved graves purchased at least 75 years ago but into which no burials have taken place and then to re-use them. Again, LACO contains a notification process whereby grave owners that come forward can retain their right.

5.3.8 Where there is a monument erected above the grave, there is legal provision to reclaim the memorial provided by both the 1976 Act and through the use of Article 16(2) and Schedule 3 of LACO 1977. Re-use or reclamation of a memorial is separate to, and not to be confused with, the re-use or reclamation of the grave. In some circumstances, where a memorial is present, it may be necessary to permanently remove a memorial for safety reasons or because its quality or its condition is such that it no longer fulfils its purpose as a memorial.

5.3.9 Council constitution – 15 – Responsibility for Functions states that the Environment Committee includes specific responsibilities of commissioning for Cemetery and Crematorium.

5.3.10 All proposals must be considered in terms of the council's legal powers and obligations, including its overarching statutory duties such as the Public Sector Equality Duty

5.4 **Risk Management**

5.4.1 The recommendations and the options provided in this report are being proposed to mitigate the following risks:

- HCC running out of burial space for new graves
- HCC turning into an unsustainable community asset
- Current residents and future generations not being able to use HCC for their family burials
- HCC losing the required investment to maintain the site and the facilities provided to the bereaved
- Barnet residents losing the option of affordable burial space
- Hendon Cemetery and eventually the crematorium ceasing to be economically viable
- Not meeting the projected service income and the guaranteed income in the Re contract as a result of reduced income
- To ensure that the LA is compliant with Article 4(1) of LACO 1977 which requires that a Local Authority keeps any cemetery that they are responsible for in good order, including buildings and infrastructure. Therefore most day-to-day operations would need to continue in order to complete horticultural and housekeeping duties, not to mention the health and safety functions for a public open space and so costs would not significantly reduce

5.4.2 There is sensitivity risks associated with grave reuse as detailed in Appendix 2. By following the technical guidance of the London Environmental Directors Network (LEDNET) *Technical Guidance on the Re-use and Reclamation of Graves in London Local Authority Cemeteries* (2013), these will be carefully managed and mitigated.

5.4.3 The City of London Cemetery based within LB Newham has been reclaiming and reusing old graves and associated memorials for almost 20 years. They have been consulted and advise that the policy has not created any significant issues or concerns amongst cemetery users.

5.5 Equalities and Diversity

5.5.1 Hendon Cemetery and Crematorium is a multi-faith facility and routinely undertakes funerals for all major faiths as well as secular services. Reduced or no burial capacity could impact on all members of the community that either require or desire burial as the final act for the deceased.

5.5.2 Specific communities are unable to use 're-used' graves, for example the Muslim community. They also require the graves to be aligned to Mecca. Not taking action to address the shortage of new grave spaces will have an adverse impact on a specific community in Barnet. The options proposed and agreed, therefore need to ensure the potential for inequality and not providing a service accessible to all of Barnet's diverse communities, is addressed.

5.6 Consultation and Engagement

5.6.1 Statutory consultation will be undertaken and the process for grave re-use will follow the Guidance set out in the London Environmental Directors Network (LEDNET) *Technical Guidance on the Re-use and Reclamation of Graves in London Local Authority Cemeteries* (2013).

5.6.2 Notices will be displayed at the cemetery entrances, giving a minimum of 2 years notice, before any actions can be undertaken to reclaim graves.

5.6.3 A notice will be served on the registered owner of the grave providing at least 6 months' notice of the intention to reclaim.

5.6.4 Objections from interested persons (owner, relative of deceased) will be taken into account and if not withdrawn the burial authority may not exercise its powers for at least a further 25 years.

5.6.5 Notices of the intention to reclaim graves will be published in local publications.

5.6.6 The proposed increase in the non-residents fee for grave pre-purchase was consulted upon as part of the wider consultation on fees and charges published on the council's website.

5.7 Insight

- 5.7.1 Data on take up of grave spaces at HCC has been used along with site maps and grave records to identify the amount of remaining grave space.

6. BACKGROUND PAPERS

London Environmental Directors Network (LEDNET) Technical Guidance on the Re-use and Reclamation of Graves in London Local Authority Cemeteries.
http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&ved=0ahUKEwiww-bJ_4TOAhWiK8AKHTzUADQQFggjMAA&url=http%3A%2F%2Fwww.lpgsf.org.uk%2Fwp-content%2Fuploads%2F2014%2F08%2FRe-Use-Technical-Guidance-Document-Final-October-2013.pdf&usg=AFQjCNGEPKwGxANTKuxRqeT0caA4Kahf9g&bvm=bv.127521224,d.ZGg

Institute of Cemetery and Cremation Management (ICCM) Policy – Reuse of Graves.

http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwiv7ueNptzOAhVrJcAKHVxhBssQFggjMAA&url=http%3A%2F%2Fwww.iccm-uk.com%2Ficcm%2Flibrary%2FRe-use%2520Policy.pdf&usg=AFQjCNEN_KAMV-MGAXxMVfZ_xzrmcDhgA