

# **Closed Churchyards Management Plan**

## **London Borough of Barnet**

August 2021

### **1. Introduction**

The purpose of the closed Churchyards management plan is to assist the Council in maintaining its stewardship of closed churchyards through outlining a robust system of inspection and maintenance. Closed churchyards are not owned by the Council, however the Council is responsible for their maintenance.

A closed churchyard is a Church of England burial ground that no longer has capacity for further planned burials and as such has been termed 'closed'. A closed churchyard does not usually have provision for the regular further burials of bodies, but many have areas dedicated for the regular further burial of cremated remains; and bodies may still occasionally be buried in family graves or following faculty. These are places of peace and tranquillity and any works will be undertaken with sensitivity and respect. This plan adopts principles of the guidance prescribed by the government and sets out a risk-based approach for the London Borough of Barnet (LBB) to develop a proportionate regime to managing the risks associated with memorials based on good practice.

### **2. Consultation**

The relevant Dioceses (London & St Albans) have been consulted with to produce this management plan. The Closed Churchyards currently managed by the Council are:

- Bells Hill Burial Ground
- Christ Church, Barnet – Christ Church Cemetery
- Holy Trinity East Finchley churchyard
- St Andrews Totteridge churchyard
- St James the Great Friern Barnet churchyard
- St John the Baptist Chipping Barnet churchyard
- St Mary's Finchley churchyard
- St Mary the Virgin East Barnet churchyard
- St Mary's the Virgin, Monken Hadley churchyard

The Closed Churchyard addresses can be found in appendix 1. The Closed Churchyard site maps can be found in appendix 3.

### **3. Background**

The Diocese of London and the Diocese of St Albans are the administrative bodies of the Church of England that covers Barnet, however each individual churchyard is owned and managed by its own Church Council.

Once a churchyard is closed the Parochial Church Council (PCC) concerned may, under Section 215 of the Local Government Act 1972, serve a written request on the Parish Council to take over the maintenance of the churchyard. If the Parish Council rejects the request and gives written notice requiring the Council to take over the responsibility, then the responsibility for maintaining the churchyard then becomes mandatory upon the Council. There is no Legal Transfer Deed transferring the closed churchyard as the ownership of the closed churchyards does not pass to the local authority. The cost of maintenance has to be met exclusively by the local authority.

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”.*

LBB will arrange to cut the grass and keep any areas of vegetation generally tidy and is responsible for most features in the churchyard. Boundary walls and upkeep of footpaths are included under the Council’s responsibilities. Greenspaces undertake tree surveys (usually every three years or more frequently if an issue arises) to identify any risks associated with trees within the churchyard and to carry out safety work where necessary. The safety of headstones and monuments is generally accepted to be the responsibility of LBB under these arrangements. There are some limitations as to what work can be carried out in a closed churchyard. There may be planning restrictions appertaining to buildings, monuments and trees. The land remains consecrated and the Council is required to obtain permission from the church authorities for a Faculty Jurisdiction<sup>3</sup> before making any significant changes or works, which will also have to take into consideration, Conservation Areas<sup>4</sup>, Historic and Listed Buildings<sup>5</sup>, The Commonwealth War Graves Commission<sup>6</sup> (CWGC) and Tree Preservation Orders<sup>7</sup> (TPO’s).

#### **4. Risk Management**

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 2014, 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”. A copy of this and other useful documents can be found on their website at:

<https://www.gov.uk/government/publications/burial-grounds-guidance-on-managing-unstable-gravestones>.

#### **5. Maintenance**

The Council’s Estates team are responsible for the maintenance of closed churchyards listed above through a contract with Capita (Building Services), and through working with the Council’s Greenspaces team.

##### **5.1 Routine Maintenance**

Routine maintenance is carried out by the Council’s Greenspaces team at some of the Closed Churchyards (e.g. grass cutting and hedges). To promote biodiversity, churches may request reduced grass cutting to create wildflower areas in Closed Churchyards.

##### **5.2 General Maintenance**

The Council has an obligation to keep infrastructure features such as boundary walls, fences, lychgates, and footpaths in a good and safe state of repair, and will regularly inspect these. Whilst the Council retains responsibility for timely, safe and essential remedial action and given the expensive cost of some repairs and no funds being provided by the government or local taxes, consideration should be given to seeking grant support / fund raising in partnership with the Church and stakeholders in order to achieve the most desirable solution.

##### **5.3 Memorial Safety**

The Council will work with the Church to manage the safety of the monuments and will consult and obtain where required the necessary Faculty authorisation to undertake inspections and any resulting remedial works.

The safety of individual memorials and ultimate liability remains with the family of the deceased, who own the memorial. The following programme aims to assess and control the risks posed by memorials within the churchyards, it seeks to identify these and to describe an approach to control them that is reasonable to all involved within the churchyards.

The Council will appoint suitable contractors to perform site risk assessments and test memorials using visual inspections, looking for signs of damage and also test them by hand to identify instability. Consideration will be given to the location and type of memorial as part of the assessment to determine action; this will include memorials alongside or close to footpaths as these present a higher risk to visitors.

#### 5.3.1 Safe Memorials

Where a headstone is tested and it is deemed safe no action will be taken with that memorial and it will be the subject of a re-inspection as part of a five year rolling program.

#### 5.3.2 Unstable memorials

If a memorial is found to be unstable but not imminently dangerous the memorial will be temporarily supported ensuring no damage will occur to the memorial. LBB will inform the Church who in turn shall notify the memorial owner/next of kin, (if they can be identified) to rectify the situation. If no owner/next of kin can be traced or no action has been taken after 6 months the Council will make safe the memorial by laying it flat, inscription side up. A faculty will be necessary, either before works or in retrospect if very urgent. Once identified as being unstable a warning sign displaying LBB and the Church contact details will be placed next to the memorial on the stake alerting visitors to the potential danger until repair or laying down has been completed. If circumstances make this impractical the memorial will be cordoned off until it is made safe. The owner/next of kin of the memorial, if known, will be invoiced by LBB for the cost of making the memorial safe and administration in organising the works.

#### 5.3.3 Imminently dangerous memorials

Health & Safety items will be treated as Priority 1 for action. Only when a memorial poses a significant risk, such as collapsing, will immediate action be taken by the Council in consultation with the Diocese and Church through seeking Faculty. It will be fenced off from the public. Headstones will be laid flat, inscription side up, informing the Church. For larger monuments, it may be necessary to undertake a further professional survey (heritage/structural engineer) to determine the most appropriate approach to dismantling / conservation.

If this is not immediately possible to lay flat the imminently dangerous memorial, access will be restricted by whatever means are possible to reduce the risk. LBB will request the Church contacts the memorial owner/next of kin and signage will be installed next to the memorial. The owner/next of kin of the memorial will be invoiced for the cost of making the memorial safe and administration to arrange works, (if they can be traced). It is then up to the memorial owner/next of kin to decide on whether to leave it laying flat or repair it at their cost. The memorial will be left lying flat unless the owner chooses to repair it or cannot be traced.

LBB will only be 'staking' headstones for a maximum of 6 months to support unstable memorials, **not** imminently dangerous memorials, as it is recommended that stakes should not be used routinely to support unsafe headstones. They can be unsightly; the process of

staking can present a risk of harm and can also divert attention away from the consideration of the risk presented by a memorial.

Churches that wish to carry out memorial testing themselves in their own churchyards must provide the London Borough of Barnet with written confirmation that their insurers agree with their proposal as well as notify the London Borough of Barnet if any memorials are deemed unstable or imminently dangerous after each test.

#### 5.4 Statutory and Locally Listed Monuments and conservation areas

Any works to Statutory Listed monuments will be undertaken in consultation with Dioceses with a view to obtaining Faculty and a view from the Council's Heritage Officer. Faculty will be required for any work that would affect the Statutory Listed monument's character or appearance.

Any works to Locally Listed monuments do not normally require planning consent. Any significant works (e.g. proposal to lay flat) will require consultation with Dioceses with a view to obtaining Faculty and a view from the Council's Heritage Officer.

Any significant works (e.g. monuments requiring removal, or any structural work) in conservation areas do not normally require individual planning consent. However, the approach will be discussed with Planning in relation to specific cases in conservation areas.

The following Closed Churchyards are sited within conservation areas:

- St Andrews Totteridge – Totteridge conservation area
- St John the Baptist Chipping Barnet – Wood street conservation area
- St Mary's Finchley – Finchley Church End conservation area
- St Mary's the Virgin Monken Hadley – Monkey Hadley conservation area.

A table of Listed and locally listed monuments can be found in appendix 2.

### 6. Communication

The Church will be informed prior to any works being undertaken in the closed churchyards and the necessary Faculty obtained by the Church incumbent if required prior to the commencement of works. The Church will notify its members/congregations of any works.

### 7. Budgets

Basic maintenance costs are currently met by LBB. LBB is committed to working in partnership with the Churches and other groups to take a balanced approach to keeping the churchyards safe and pleasant places to visit. While maintenance responsibilities are passed to LBB, no funding comes from central government, the Church, or local taxpayers; this means only maintenance can be carried out to keep the Closed Churchyards in good order.

LBB encourages Churches and other community groups to apply for external grant funding to support enhancement works within closed churchyards which go beyond the basic standards of maintenance.

### 8. Appendices

Appendix 1: Closed Churchyard contact details

Appendix 2: Listed and locally listed monuments within LBB Churchyards

### Appendix 3: Closed Churchyard site plans