

## East Herts Council Report

### Council

**Date of meeting:** 16 November 2022

**Report by:** Councillor George Cutting – Executive Member for Corporate Services and Local Ward Member for Bishop’s Stortford Central

**Report title:** Local Act – Bishop’s Stortford Cemeteries Bill

**Ward(s) affected:** Bishop’s Stortford Central, Bishop’s Stortford All Saints, Bishop’s Stortford Meads, Bishop’s Stortford South, Bishop’s Stortford Silverleys

**Summary** – This report sets out the case for the promotion of a Private Bill to enable the reuse of burial space in two cemeteries in Bishop’s Stortford.

### **RECOMMENDATIONS FOR Council that**

- a) The Council authorises the promotion and deposit of the private Bill on behalf of the Bishop’s Stortford Town Council to authorise the reuse of certain graves with two cemeteries in its area subject to appropriate protections substantially in accordance with the attached draft Bill.**
  
- b) The Council authorises the Head of Legal and Democratic Services, in consultation with the Executive Member for Corporate Services, to address procedural matters which may arise in relation to the promotion of the Bill and to enter into undertakings or commitments in relation to it**
  
- c) The Council authorises the Head of Legal and Democratic Services to agree to the making of any necessary amendments to the Bill that may arise during the course of the promotion of the Bill.**

## **1.0 Proposal(s)**

- 1.1 The council is seeking to promote a private Bill ("the Bill") on the request of and on behalf of Bishop's Stortford Town Council (BSTC) to ensure the continued provision of burial space within two cemeteries in its area, on either side of Cemetery Road, Bishop's Stortford. These cemeteries are the only municipal cemeteries in the civil parish.
- 1.2 The council sought advice from Parliamentary Agents who have produced a draft Bill (copy of which is annexed to this report)

## **2.0 Background**

- 2.1 BSTC has advised that grave space available with existing powers is sufficient to last less only until 2036 (or thereabouts) 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 population of the Town is approximately 40,000 and is expected to grow to around 50,000 by 2030.
- 2.2 There is an acute concern by BSTC that grave space will not be sufficient or sustainable for the town, meaning it will be impossible to provide burial space for residents within the town. BSTC previously consulted on the proposals for the Bill and has carried out considerable investigation, including searching for further land, using its existing powers and 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 burial authorities in the London Local Authorities Act 2007, the New Southgate Cemetery Act 2017 and Highgate Cemetery Act 2022. The possibility of using land, situated in Essex but owned by the BSTC was also considered, however this was not deemed suitable by the BSTC as a) the land is currently used for amenity purposes and is being further developed for that use, b) it is not conveniently accessible by foot or public transport from the town, c) it does not provide residents with the opportunity to bury their loved ones within the local area, d) the road access is poor and cannot practically be upgraded.

## *Procedure*

2.3 In order to promote the Bill, the council must comply with the provisions of section 239 of the Local Government Act 1972 (LGA 1972). The relevant legal notices are annexed to this report. Primarily, the Council must pass the necessary resolutions. The first resolution (to be given at the 16 November 2022 Council meeting) confirms that the Council considers it expedient to promote the Bill. The second resolution (to be given at a later meeting) confirms the first resolution and follows the deposit of the Bill in Parliament.

The procedure to be followed is as follows:

- 2.4 The Council meeting on the 16<sup>th</sup> November 2022 will consider approval for pursuing the Bill. A full majority of the Whole of the Council will be required to pursue the Bill. A majority of those present and voting is not sufficient.
- 2.5 If the first resolution is made at the 16<sup>th</sup> November 2022 meeting, the Bill is to be deposited in Parliament by 28<sup>th</sup> November 2022 (27<sup>th</sup> November falls on a Sunday this year hence the 28<sup>th</sup> is the next working day). If it is not deposited by this date, the council will have to wait until 27 November 2023 to deposit the Bill. This is because private Bills can only be deposited once a year, on or before the 27 November.
- 2.6 A second Council resolution must also be confirmed by a majority at a further meeting convened and held no earlier than 14 days after the deposit of the Bill, confirming that the Council wishes to proceed.
- 2.7 There will be various stages of the Bill through Parliament which will be facilitated by our Parliamentary Agents. If successful, the Bill is likely to be enacted by late 2023 and mid 2024.

## *Proposed powers*

2.8 The proposed Private Bill for the cemeteries would in brief comprise of:

- (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);
- (c) The power to remove memorials from any grave where the powers above have been exercised

2.9 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. The Bill, if enacted, would immediately allow space for an estimated 1000+ graves. These additional powers would provide a supply of grave space for at least the next century and quite possibly and with appropriate management, indefinitely. By providing for a sustainable re-use, it would also make it less likely the cemeteries would fall into disrepair.

### **3.0 Reason(s)**

3.1 Whilst BSTC owns, maintains and is the burial authority for the 2 cemeteries the Houses of Parliament have been unable to agree whether or not a Town or Parish Council can promote a private bill in Parliament independently.

3.2 Whereas, the council can promote a private Bill if it considers it is expedient to do so under s.239(1) LGA1972. In this context "expedient" includes, being of benefit to the inhabitants of the council's area. It will, ultimately, be for the Council to resolve whether the promotion of a Bill is expedient, at a full council meeting held in accordance with section 239 LGA 1971.

### **4.0 Options**

4.1 To approve the recommendation to promote and deposit the Bill.

4.2 To refuse the recommendation to promote and deposit the Bill

## **5.0 Risks**

5.1 There is no direct implication on the council as it is promoting this on behalf BSTC at its request.

## **6.0 Implications/Consultations**

6.1 The council carried out a public consultation on the Bill proposals which was published in the local newspapers circulating the area (Bishop's Stortford Independent and the Hertfordshire Mercury). The consultation was open for approximately six weeks and closed on 10<sup>th</sup> October 2022. A total of seven responses was received (six citing concerns/objections towards the Bill and one in support of it).

6.2 A summary of the responses are: -

- That the proposed time period of 75 years for extinguishment of exclusive rights was too short considering a family's life span.
- General objections to family members graves being disturbed.
- Those buried for religious reasons that may not have descendants in the local area.
- Concerns over the scope of the consultation given that some relatives may have moved out of the local area.
- Instead of reusing burial space a suggestion of exploring land elsewhere, even if outside the Bishop's Stortford area.
- Disagreement that that the present land bank is insufficient to accommodate the burials of an expanding population.
- That central government has not taken any action in the form of creating primary legislation to deal with any alleged national shortage of burial spaces.
- The council should be looking at other statutory powers such as the Town and Country Planning Act 1990 to identify suitable areas to identify suitable areas or acquire land for the purpose of burial spaces.
- In terms of the response in favour of the Bill it was considered that the Bill is the best option for providing burial space for the future and believes that there are no other alternative suitable sites available.

- 6.3 The consultations responses have been thoroughly considered by the council, BTSC and the Parliamentary Agents. Many of the objections relate to specific graves, however the Bill (annexed) is proposed to include specific protections for grave owners, including a notice period (including notices in local newspapers and on BSTC’ s website), and a veto over proposed extinguishment, as well as facility for relatives to prevent human remains from being disturbed for at least 25 years
- 6.4 In relation to the in principle objections, it should be noted that the Bill provides that the proposed powers must not be used unless 75 years have passed since the last interment. That period is considered proportionate in balancing the need for local burial space provision (likely to come under acute pressure given population trends), whilst allowing relatives to continue to pay their respects in light of the aforementioned protections. The 75 year period also reflects the position adopted in respect of New Southgate, Highgate and publicly run burial authorities in London. The powers would unlock significant burial space for inhabitants in the district council’s area, and that alternatives would not be as sustainable or cost effective.”

**Community Safety**

No

**Data Protection**

No

**Equalities**

No

**Environmental Sustainability**

No

**Financial**

No – Costs for the Bill will be paid by BSTC in its entirety. This includes the Parliamentary Agents fees and disbursements. It is expected that if the Bill is passed, the BSTC will recoup some of the costs through contributions obtained via Planning obligations pursuant to s.106 Town and County Planning Act 1990

for the area. The costs of obtaining the Bill are estimated to be £50,000-£100,000.

### **Health and Safety**

No

### **Human Resources**

No

### **Human Rights**

Yes – Parliamentary Agents for the council will finalise a statement on the compatibility of the proposals with the European Convention on Human Rights, but have concluded that there is no breach of any Convention Rights. Following the deposit of the Bill, the Attorney General will be required to provide a report confirming his agreement that there is no incompatibility.

### **Legal**

Yes – The Bill would lead to a change in legislation which would be applicable in the Bishop's Stortford administration area only.

### **Specific Wards**

Yes

## **7.0 Background papers, appendices and other relevant material**

7.1 Draft Bill /consultation documents/notice requirements

### **Contact Member**

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