

NALC Smaller Councils Committee

Addressing the Need for Parish and Town Councils to be permitted to reuse Grave Spaces as permitted in London.

Introduction:

Cemeteries play a significant role in preserving cultural heritage and providing spaces for commemoration and remembrance. However, with populations increasing and available land diminishing, the issue of cemetery space scarcity has become increasingly prevalent.

Parish and town councils, as burial authorities, face the challenge of balancing the need for respectful burial practices with the practical constraints of limited space.

This paper addresses the imperative for parish and town councils to be permitted to reuse grave space as a sustainable solution, drawing insights from the permissive framework established in London.

Legal Framework:

In England and Wales, buried human remains may not be disturbed without specific authority. Section 25 of the Burial Act 1957 makes it an offence to remove buried human remains without a licence from the Secretary of State or, in relation to consecrated ground, a faculty (permission from the Church).

The exception to this is in London. London burial authorities have the power to disturb remains in graves older than 75 years for the purpose of deepening the grave to allow further burials to take place by virtue of section 74 of the London Local Authorities Act 2007.

Outside of London, where the 2007 Act does not apply, the Ministry of Justice will refuse any request to lift and deepen a grave unless it is a request on an individual basis where perhaps an error in connection with that grave needs to be rectified.

Possible solutions:

The eighth report of the Select Committee on Environment, Transport and Regional Affairs, published in 2001 argued for legislation to enable reuse of graves with safeguards:

“It is the almost universal view of those in the burial industry that reuse is the only long-term solution not only to the lack of burial space, but also to the long-term financial viability of cemeteries. 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. ... 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.”

Equally the Labour Government’s 2004 consultation paper came to the same conclusion.

“Although various models might have been considered, the method of re-use recommended by LPAC [London Planning Advisory Committee] was the so-called ‘lift and deepen’ practice. This involves the exhumation of remains in an existing grave, digging the grave to a greater depth, re-interring the remains (in a fresh coffin, if necessary), and using the rest of the grave for fresh burials. Since old remains would occupy less room, and the grave itself would be dug, wherever possible, deeper than has commonly been the practice (perhaps to 3.1 metres, allowing a further three burials above), it was said that, in practice, the grave could be used indefinitely if the cycle were repeated.”

Successive governments have advised that they would keep this under review. Most recently in March 2022, Sir John Hayes tabled a written parliamentary question asking the Secretary of State for Justice:

“...what recent assessment he has made of the availability of burial space in England and Wales; and whether the Government has plans to bring forward legislative proposals on the re-use of graves, similar to the regulations that apply in London.”

Tom Pursglove, who was then a junior Justice Minister, replied:

“the reuse of burial space is a sensitive issue and we are carefully considering what action could be taken. We have not made a recent assessment of the availability of burial space in England and Wales, but we continue to work closely with stakeholders to build a national picture and welcome any information from burial providers about the circumstances in their area.”

In December 2022, the Law Commission began a project “Burial, Cremation and new Funerary Methods” – the terms of reference include consideration of the law governing grave reuse. The project is however not due to be completed until the end of 2025.

Bishop’s Stortford Town Council is currently pursuing a private members bill “Bishop’s Stortford Cemetery Bill” through Parliament to attempt to solve their shortage of burial space. They are to be congratulated on taking this step with the support of East Hertfordshire District Council at a reported cost of £100,000.

Their Bill, if successful, would authorise the Town Council as the burial authority to extinguish rights of burial in grave spaces and to disturb and reinter human remains which have been in situ for over 75 years in order to increase the space for further interments in such graves.

Ethical Considerations:

Ethical considerations surrounding grave reuse encompass respect for the deceased, the wishes of bereaved families, and the preservation of cultural heritage. While initially met with apprehension, London's experience shows that public education and stakeholder engagement are pivotal in addressing ethical concerns.

Conclusion:

The need for parish and town councils to be permitted to reuse graves as a pragmatic solution to cemetery overcrowding is evident.

It is simply unfair that reuse of graves is only permitted in London.

It is impractical and unaffordable for most parish and town councils to seek a private members' bill to obtain additional grave space as had been done by Bishop's Stortford – a national solution is required.

This paper requests the Committee to refer this issue to the NALC Policy Committee.

In addition, it requests a survey of member Councils to establish the extent of the lack of burial space to provide an evidence base for future action.

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Vice-Chair NALC Smaller Council's Committee
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