

## GRAVE LEASE EXTENSIONS

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<b>Wards affected:</b>	(All Wards);
<b>Urgent Decision?(yes/no)</b>	No
<b>If yes, reason urgent decision required:</b>	
<b>Appendices (attached):</b>	Appendix One – Benchmarking Data

### Summary

This report proposes updates to the Burial Policy for Epsom Cemetery, including the extension of expiring grave leases for an additional 25 years, an adjustment of the standard lease duration from 40 to 75 years, and the halting of both the sale of 11-foot graves and the practice of pre-purchasing graves.

### Recommendation (s)

#### The Committee is asked to:

- (1) Agree to extend expiring grave leases for an additional 25 years, with charges set at £350 for residents and £500 for non-residents as from 1 April 2025.**
- (2) Agree to adjust the standard lease duration from 40 year to 75 years, with a 15% increase in current charges as from 1 April 2025.**
- (3) Agree to halt the sale of pre-purchasing graves for future use effective immediately.**
- (4) Agree to halt the sale of 11 foot graves effective immediately.**

## 1 Reason for Recommendation

- 1.1 The recommendations address the urgent need for a clear and structured approach to managing expiring grave leases.

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- 1.2 Given the growing number of expiring graves, extending lease terms and adjusting the standard lease duration ensures upkeep of burial space while generating necessary revenue to cover the increase in administration duties and upkeep of expired memorials which will return to the borough to maintain if Grantees (grave owners) cannot be traced or choose not to extend their grave leases.
- 1.3 Stopping the sale of future use graves and the practice of digging 11 foot graves, brings the Council in line with neighbouring authorities and addresses health and safety concerns associated with accessibility and working in confined spaces.

## **2 Grave Lease Extensions**

- 2.1 Over the years Epsom & Ewell Borough Council have offered various grave lease terms. Analysis of the cemetery database reveals many old leases were sold in perpetuity, and in more recent years they have been sold for terms of 100, 50 and currently 40 years.
- 2.2 It is the leases which were sold for 50 year terms which are now beginning to expire, with approximately 1000 leases due to expire over the next 10 years.
- 2.3 Last year 91 leases expired, and the Council temporarily extended these leases for a period of 12 months to provide time for investigation, bench marking and decision making.
- 2.4 It is worth noting that out of the 91 Grantees who were contacted by post, 36 letters were returned to the Council as not known at the address, leaving 55 delivered. Of the 55 delivered, the Cemetery team received around 10 telephone enquiries.
- 2.5 It is therefore likely that offering extensions may only see a handful each year taking up the offer of extension with most expiring.
- 2.6 To encourage Grantees to renew the lease the proposed fee must be moderately priced.
- 2.7 If the Grantee cannot be contacted after reasonable effort has made, or decides not to renew the lease, then the grave rights and responsibility returns to the charge of Epsom & Ewell Borough Council and the borough assumes the responsibility for any memorial which has been placed on the grave. The borough then has the legal right to decide if the memorial is kept in situ, laid flat, or removed and disposed of if it becomes unsafe. Reasonable efforts to contact the Grantee must be recorded before removal of any memorial is agreed.
- 2.8 Reasonable efforts to contact the Grantee are defined as, phone call, email, postal communications, and a notice on the grave which will be left in place for a period of six months.

### 3 Re-using reclaimed graves

3.1 The Local Authorities Cemeteries Order 1977 is a piece of legislation in the UK that provides local authorities with the legal framework to manage cemeteries and burial grounds. It outlines the powers and responsibilities of local councils regarding the establishment, maintenance, and regulation of cemeteries, including the following key points:

- **Burial Rights:** The Order allows local authorities to grant exclusive rights of burial also known as grave lease, specifying how long these rights can be held and the conditions under which they may be reclaimed. An Exclusive Right of Burial is essentially a legal permission granted by a burial authority that allows an individual known as a Grantee to decide on whose remains are placed in a specific grave or burial plot. This right means that no one else can be buried in that grave without the permission of the person who holds the right. It does not mean that the individual owns the land itself; rather, they have the exclusive right to be buried there for a specified period, usually not exceeding 100 years.
- **Management and Maintenance:** It establishes requirements for the management of cemeteries, including the maintenance of records, oversight of burials, and the care of grave spaces.
- **Reclamation of Graves:** The Order provides guidelines for reclaiming graves that have not been used for a specified period, allowing authorities to reuse burial space when appropriate conditions are met.
- **Regulations and Fees:** The legislation also covers the setting of fees for burial services and the establishment of rules regarding the conduct of burials, memorials, and cemetery operations.

3.2 Under the Local Authorities Cemeteries Order 1977, burial authorities may reclaim the rights in reserved graves purchased at least 75 years ago if the rights of burial have not been exercised and the relevant notice has been given. This means that if individuals have pre-purchased graves that have not been used for 75 years, the local authority can legally reclaim the grave, if necessary, once the reserved period has expired. However, many of the very old graves in Epsom Cemetery were sold in perpetuity, so the local authority would not have the legal right to reclaim them solely due to lack of use for 75 years.

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- 3.3 London burial authorities have some additional powers. In specified circumstances, they may reclaim a private grave (a grave in respect of which an exclusive right of burial has been purchased) and then use the remaining space in it for the purpose of further burial, where the burial rights have not been exercised for 75 years or more and notice has been published. This process would not disturb any existing remains in the grave. London burial authorities also have power to disturb remains in private graves older than 75 years for the purpose of deepening the grave to allow further burials to take place.
- 3.4 Outside of London there is no legal framework to give local authorities the power to disturb remains.
- 3.5 Our current regulations state the following “The Grant of Exclusive Right of Burial for a Grave Space is issued for an initial period of forty years but may be extended on expiry for a further period on payment of a nominal sum, but under current legislation such further period cannot exceed 100 years.”.

#### 4 Charging Structure for Burials

- 4.1 In line with most other local authorities, Epsom & Ewell Borough Council have adopted a three part charging structure for burials at Epsom Cemetery. Epsom & Ewell’s policy charges a reduced rate for residents of the borough. The three main costs are as follows:
- **Exclusive Right of Burial Fee:** To bury someone at Epsom Cemetery you need to purchase an Exclusive Right of Burial currently for a 40-year lease term. This means that the Grantee (grave owner) can bury coffins and/or cremated remains in the grave within the 40-year period. This is a one-off charge. The person that purchases the Exclusive Right of Burial becomes the Grantee, this means that no-one can be buried in the grave, place a memorial item on the grave or carry out remedial works without written consent from the Grantee and approval from the Cemetery Superintendent. This fee pays for the burial space and helps towards the cost of management, administration, and general upkeep of the cemetery. Once the grave lease expires, no further burials will be permitted in the grave, even if there is still burial space remaining.

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- **Interment Fee:** The next cost is for the interment (burial) of a coffin/cremated remains into the grave space. When you bury the first person in the grave you need to decide how deep you would like the grave dug to, currently we have four options: 5ft - one burial, 7ft - two burials, 9ft - three burials or two American style caskets or 11ft - four burials. In addition to the coffin burials, you may have up to six cremated remains buried in the same grave space. The fee payable depends on the depth you select at this stage. This fee pays for the costs associated with digging the grave, cemetery management and administration, and general upkeep of the cemetery. Any future interments into the grave space will incur additional interment costs.
- **Memorial Permit:** Before any memorial can be placed on a grave, the Grantee must appoint a Stone Mason, who needs to apply to the Cemetery Team for a Memorial Permit. A Memorial Permit in the UK is an official authorisation issued by local authorities for the installation of memorials such as gravestones, plaques, or other commemorative structures in cemeteries or designated memorial areas. The permit process ensures that the memorial complies with relevant legislation and Epsom & Ewell Borough Council's regulations regarding dimensions, materials, inscriptions, and positioning to maintain the site's integrity and aesthetics. Applicants need to submit a detailed proposal for the memorial, which is reviewed by the Cemetery team for approval.

A fee is charged for a memorial permit, and this will vary depending on the size and scale of the memorial. The memorial fee contributes to the cost of administration of the permits, checking memorials comply with the terms of permit once in situ, and the five-year rolling programme of safety testing. During the lease term (currently 40 years) the memorial belongs to the Grantee, and they are legally responsible for all repairs to the structure and any additional accoutrements that are placed on the grave. Once the grave lease expires, the memorial becomes the legal property of Epsom & Ewell Borough Council who have the legal right to decide if the memorial is kept in situ, laid flat, or removed and disposed of if it becomes unsafe. Reasonable efforts to contact the Grantee must be recorded before removal of any memorial is agreed.

## 5 Proposal for Grave Lease Extensions

- 5.1 Officers have conducted a bench marking exercise of the Surrey districts and boroughs and a sample of other local authorities across the country. Whilst length of lease extension and the models for charging vary quite widely, the findings have concluded that a 25 year lease extension at a cost of £350 for residents and £500 for non-residents appears to be the average. Bench-marking data can be found at appendix one.

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### 6 Proposal for New Grave Leases

- 6.1 Based on data analysis the findings also suggest that grave leases ranging from 50 to 100 years are now the standard offer from most local authorities.
- 6.2 Therefore, it is recommended that from April 2025 all new leases are issued for a period of 75 years with an uplift of 15% from the current fees rather than the standard 6% annual increase to compensate the Council for the additional lease term.
- 6.3 Whilst this increase in cost places some of our premium grave spaces at the higher end of the local market, Officers feel that we are able to offer grave space at different price points to accommodate varying budgets.
- 6.4 The table below illustrates current costs for graves at Epsom Cemetery and proposed costs if the new lease term and associated increase is implemented:

Grave Type/Location	24/25 (Non-Resident)	25/26 (Non-Resident)	24/25 (Resident)	25/26 (Resident)
Front Row Traditional	£7,977	£9,174	£4,102	£4,717
Traditional/Faith (Other Rows)	£4,250	£4,888	£2,178	£2,505
Butterfly Lawn Section (Baby Grave)	£1,214	£1,396	£1,214	£1,396
Garden of Remembrance (Cremated Remains)	£1,375	£1,581	£710	£817
Pergola Plot	£7,897	£9,082	£4,065	£4,675
New Lawn Section	£3,652	£4,200	£1,887	£2,170

### 7 Pre-purchase of Future Use Graves

- 7.1 It is proposed that the practice of selling graves for future use will be discontinued to ensure compliance with health and safety regulations and to future-proof the Council's income.
- 7.2 Over the years, many families have pre-purchased burial plots for future use. The income generated from the sale of these exclusive rights of burial has been attributed to the financial year in which they were purchased, rather than when they are actually utilised. As families now begin to exercise their rights to these pre-purchased graves, this has adversely affected our ability to sell new grave spaces at current market rates.

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- 7.3 In addition, to the impact on our revenue budget, our grounds maintenance operatives have raised concerns that accessing pre-purchased graves is becoming increasingly difficult. When the grave was originally purchased there may have been plenty of space around the grave, however as the surrounding graves have been sold and used, pre-purchased graves can only be opened by manually digging rather than the use of a mechanical digger. Manually digging hard, chalk soil, in a confined space is costly, labour intensive and can lead to musculoskeletal injuries, in accordance with HSE guidance it is always recommended that we design out risks where practicable. Halting the sale of pre-purchased graves would help to achieve this over the longer term.

### **8 11 foot Graves**

- 8.1 We currently offer four digging depths: 5 feet suitable for one burial, 7 feet for two burials, 9 feet for three burials or two burials in an American style casket, and 11 feet for four burials.
- 8.2 Under UK legislation, 11 feet is the maximum depth for a burial; however, there is no minimum depth. The Ministry of Justice recommends a minimum of two feet of soil between the coffin lid and ground level.
- 8.3 As outlined in paragraph 6.3, concerns have been raised regarding accessibility when digging to 11 feet, particularly the difficulty of using a mechanical digger for this depth. The digger arm does not fully reach 11 feet, requiring the remaining depth to be dug by hand using a handheld Kango drill (also known as a demolition hammer or breaker) which is extremely heavy to lift in and out of the grave space. This type of drill operates at a high vibration which means that it can only be used for a short period of time to avoid causing hand arm vibration injuries.
- 8.4 A benchmarking exercise conducted among Surrey districts and boroughs revealed that the majority now only dig to 7 feet. Based on this, the proposal is to withdraw 11-foot graves from Epsom Cemetery effective April 2025.

### **9 Risk Assessment**

Legal or other duties

#### **9.1 Equality Impact Assessment**

- 9.1.1 The proposed changes to burial space management and lease extensions are expected to have no negative impact on any specific demographic group. We have ensured that both residents and non-residents have fair access to burial rights and the lease extension options. Additionally, fees and charges have been set at reasonable rates to ensure that they do not disproportionately impact low-income families or specific community groups.

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9.1.2 There is no specific religion, faith, or cultural group that universally requires a grave to be dug to a depth of 11 feet and there are no cultural or religious reasons necessitating a grave to be pre-purchased other than a desire to keep family members together in certain areas of the cemetery, which will always be accommodated where possible.

### 9.2 Crime & Disorder

9.2.1 None for the purpose of this report

### 9.3 Safeguarding

9.3.1 None for the purpose of this report

### 9.4 Dependencies

9.4.1 None for the purpose of this report

### 9.5 Other

9.5.1 None

## 10 Financial Implications

10.1 There are several financial implications contained in this report. Whilst it is predicted that there will be small income stream from grave lease extensions this will need to offset the increase in administration duties associated with grave lease renewals.

10.2 The 15% increase in Exclusive Right of Burial Fees will generate 9% additional income above the 6% Medium Term Financial Strategy target increase. This income will need to offset the costs in assuming responsibility of the graves which return to the borough's care when leases expire and are not renewed.

10.3 It is important to highlight that while these measures may generate additional income, there are also costs associated with administrative duties and the management of expired leases.

10.4 The cessation of pre-purchasing graves will benefit cashflow as burial rights will be sold at market rates at the time of interment.

10.5 Halting the practice of digging to 11 feet will necessitate the purchase of additional grave space for those wishing to bury more than three individuals.

10.6 **Section 151 Officer's comments:** The financial implications are within the body of the report.



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### 11 Legal Implications

- 11.1 The legal implications are set out in the body of the report with emphasis on section 3 which discusses the Council's legal duties in relation to the Local Authorities Cemeteries Order 1977.
- 11.2 If the committee agrees to the proposals outlined in this report, a new set of cemetery regulations and charges will need be prepared to reflect the changes set out in this report.
- 11.3 **Legal Officer's comments:** The legal implications are set out in the body of the report.

### 12 Policies, Plans & Partnerships

- 12.1 **Council's Key Priorities:** The following Key Priorities are engaged:
- Effective Council
  - Safe and Well
- 12.2 **Service Plans:** The matter is included within the current Service Delivery Plan.
- 12.3 **Climate & Environmental Impact of recommendations:** none
- 12.4 **Sustainability Policy & Community Safety Implications:** These recommendations ensure sustainability of the Council's burial service.
- 12.5 **Partnerships:** None

### 13 Background papers

- 13.1 The documents referred to in compiling this report are as follows:

**Previous reports:**

- None

**Other papers:**

- None