



# REPORT TO SAFER NEIGHBOURHOODS AND ACTIVE COMMUNITIES SCRUTINY BOARD

**21 February 2019**

<b>Subject:</b>	Provision for New Burials in Sandwell
<b>Cabinet Portfolio:</b>	Councillor Syeda Khatun – Cabinet Member for Neighbourhoods and Communities
<b>Director:</b>	Director of Law and Governance and Monitoring Officer - Surjit Tour
<b>Contribution towards Vision 2030:</b>	 
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## DECISION RECOMMENDATIONS

**That, the Safer Neighbourhoods and Active Communities Scrutiny Board:**

1. consider if there is a need for future burial space in Sandwell.
2. identifies any recommendations it wishes to make to Cabinet.

### **1 PURPOSE OF THE REPORT**

- 1.1 As with many Burial Authorities, the space for new burials in some of Sandwell's towns is running out. Therefore, Sandwell needs to consider what actions if any, are necessary to ensure the needs of the bereaved in Sandwell can continue to be met.
- 1.2 At its meeting on 16 October 2018 the Council considered a proposal to depart from the Site Local Development Plan at Powke Lane, Rowley Regis which sought approval for a cemetery and associated works. Council resolved that the matter to consider the need for a suitable burial site in Sandwell be referred to the relevant Cabinet Member and Scrutiny Board.

- 1.3 Any recommendations arising from the consideration of this report will be reported to the Cabinet.

## **2 IMPLICATION FOR THE COUNCIL'S AMBITION**

- 2.1 Making recommendations will support the council's ambition that Sandwell towns will be successful centres of the community and places where people choose to bring up their families.
- 2.2 It will also support our ambition for Sandwell to have a national reputation for getting things done.

## **3 BACKGROUND AND MAIN CONSIDERATIONS**

- 3.1 Operating as both a Burial and a Cremation authority, the Council through its Registration Service provides several essential services for the hygienic disposal of the dead.
- 3.2 Latest statistics for England and Wales suggest approximately 80% of bereaved families are now choosing cremation, the remaining 20% chose burial.
- 3.3 Whilst each year there continues to be a decline in the number of bereaved families choosing burial for their loved one, cultural or religious beliefs and choices made through generations, suggest it is unlikely the demand for burial will ever subside completely.
- 3.4 There are currently two crematoria and eight operational cemeteries in Sandwell. Only five of these cemeteries can accommodate new burials.
- 3.5 Based on historic grave data, two of those cemeteries have adequate space for just a few more years before they will no longer be able to accommodate new burials.
- 3.6 There is therefore a need to consider if Sandwell needs to adopt a policy position in respect of future burial space to ensure the needs of all bereaved families in Sandwell can continue to be met.

## **4 THE CURRENT POSITION**

- 4.1 The eight operational cemeteries in Sandwell which are managed by its Registration Services are;

- Fallings Heath Cemetery, Beebee Road, Wednesbury, WS10 9RX
- Heath Lane Cemetery, Walsall Road, West Bromwich, B71 3HR
- Oldbury Cemetery, St Pauls Road, Smethwick, B66 1QT
- Powke Lane Cemetery, Powke Lane, Rowley Regis, B65 0AG
- Tipton Cemetery, Alexandra Road, Tipton, DY4 7NP
- Thimblemill Cemetery, Thimblemill Road, Smethwick, B67 6LS
- Uplands Cemetery, Manor Road, Smethwick, B67 6SJ
- Wood Green Cemetery, Wood Green Road, Wednesbury, WS10 9QS.

- 4.2 Only five of these sites, Heath Lane, Tipton, Thimblemill, Fallings Heath and Powke Lane cemeteries are currently able to accommodate new burials.
- 4.3 When historic burial data and the number of graves available at each site are considered, it is possible to anticipate when each site will no longer be able to accommodate new burials.
- 4.4 However, if each cemetery were to close to new burials and families were to choose to use other cemeteries in the borough, this will likely see grave space at each of the remaining cemeteries used up far more quickly.
- 4.5 To date and based on current provision, the anticipated burial capacity in Sandwell can be found in the table below.

Cemetery	Approximate number of adult grave spaces available	Average number of adult burials into new graves per annum over the last 3 years.	Capacity (years)
Fallings Heath	7000	21	333
Heath Lane	510	49	10
Powke Lane	230	43	5
Thimblemill	1800	90	20
Tipton	1240	26	48
<b>Boroughwide Total</b>	10780	229	47

- 4.6 Bereaved families who choose burial can be quite parochial in the choices and tend to follow similar arrangements generation after generation when choosing a final resting place for their loved one. It would be fair to

suggest many cemeteries in Sandwell have significant numbers of burials from the same family.

- 4.7 To support bereaved families with their choices, for a number of years the pre-purchase of graves has been made available across each of Sandwell's cemeteries with the capacity of new burials.
- 4.8 With the impending capacity issues in both Rowley Regis and West Bromwich, the pre-purchase of graves at Powke Lane and Heath Lane Cemeteries is no longer being made available.

## **5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)**

- 5.1 It is presently unknown what priority residents place on bereavement related services when competing demands for open space use and potential development are considered.
- 5.2 When identifying a new site for cemetery provision there are statutory and non-statutory consultees who will need to be satisfied that a proposed site is suitable for this type of development.
- 5.3 Although not exhaustive they include; The Environment Agency, Wildlife Trust, Canals and Rivers Trust, Highways departments, Water Authorities and residents.

## **6 ALTERNATIVE OPTIONS - The future of burial space in Sandwell**

### **6.1 Identify new sites for cemetery development**

- 6.1.1 Historically, Sandwell through its Registration Service has been able to offer burial services locally in each of its six towns. The exception to this being Thimblemill cemetery which services both Oldbury and Smethwick.
- 6.1.2 Thimblemill cemetery was opened in 2008 and was developed in response to capacity for new burials at Oldbury and Uplands cemeteries which are closed to new burials.
- 6.1.3 Its location to both Uplands and Oldbury cemeteries has helped mitigate the impact on the resources needed to operate services from this site.
- 6.1.4 With capacity issues, immanent in both Rowley Regis and West Bromwich, Sandwell could seek to develop new sites in a similar way.
- 6.1.5 For Rowley Regis, a site has been identified near to the existing cemetery in Powke Lane as being suitable for cemetery development. In a similar

way, two potential sites near to Sandwell Valley Crematorium are being explored as a potential new cemetery in West Bromwich.

- 6.1.6 Following significant investment at both its crematoria recently, these options would create the opportunity to maximise the use of existing facilities such as the chapels, toilets, catering services (SVC), staff and the necessary equipment already allocated at these sites.
- 6.1.7 Alternatively, a more central site in the borough could be developed to serve the needs of several of Sandwell's six towns. This would depart from the current local provision and likely mean greater financial investment will be necessary, in addition significantly more costs to manage the site from an operational perspective would be likely.
- 6.1.8 Sandwell could also consider developing a new cemetery outside of the borough in a neighbouring authority. Without agreement from the land owner, this option would likely require the purchase of land before suitability for cemetery development is established. The purchase of land not owned by Sandwell would also likely see an overall increase in costs associated with any such development.
- 6.1.9 Identifying new sites will ensure the needs of bereaved families can continue to be met in a similar way to they are now and will add capacity for future burial provision.

## **6.2 Undeveloped land allocations within the borough**

- 6.2.1 The development of new cemeteries in the borough would likely be competing with current or potential alternative use of undeveloped sites across the borough.
- 6.2.2 There are a number of sites allocated within the adopted Local Plan for alternative uses such as housing and employment. However, the Black Country is currently struggling to meet the housing targets identified within the Joint Core Strategy due to a dip in housing completions with issues of multiple constraints and the finance required to bring them forward.
- 6.2.3 In addition to this, there needs to be a balance with regards the availability of employment land to meet the needs of the growing economy. The gap between anticipated need and existing and future supply currently stands at around 300 ha of land required within the Black Country.
- 6.2.4 There is therefore a need to ensure that any existing allocations for housing and employment are retained, and that any other sites that offer

development opportunities on brownfield land for these uses are pursued to meet the targets for the Black Country Core Strategy.

6.2.5 A new site for cemetery provision will therefore, need to be identified that does not impede the development on those sites more suited to housing and employment uses. This may mean looking at alternative sites such as open space and the Green Belt where a cemetery use would be more acceptable in retaining the openness of the green space and where any effects of development can be appropriately managed and mitigation measures put in place.

### 6.3 **Do nothing.**

6.3.1 In the event re-use of graves or new sites for cemetery provision are not identified, bereaved families in Sandwell who choose burial will need to consider what options are available to them.

6.3.2 As space at some sites runs out, each cemetery in Sandwell in turn will close to new burials, bereaved families' options for burial in the borough will diminish.

6.3.3 Their options will likely be limited to that of cremation for their loved one, they choose another cemetery in the borough or they pay additional out of borough fees in neighbouring burial authorities. This could see the costs of burial to these families either double or in some instances treble.

6.3.4 Again, although we cannot be certain of the choices these families will make, historically families who choose burial can be quite parochial in the choices they make and tend to follow similar arrangements generation after generation when choosing a final resting place for their loved one.

6.3.5 In the absence of a local option, bereaved families in Sandwell whose choice of burial as an end of life option will be required to seek alternative end of life options for their loved one that they would normally would not need to consider.

### 6.4 **Re-use of Graves**

6.4.1 There is currently no primary legislation which enables Burial Authorities to consider the re-use of graves when future burial space is needed. The disturbance of human remains to facilitate the re-use of graves requires the Secretary of State's permission. This is with the exception in London. However, even in London the re-use of graves is not extensively used.

6.4.2 The reuse of graves refers to the disturbance of human remains and re-interment at a greater depth within the same grave.

- 6.4.3 Should the re-use of graves become a lawful option in the rest of the UK, the creation of new burial space would need to be completed ensuring it is carried out with due attention to reverence, respect and dignity to those deceased persons whose remains are affected and in consultation with their families.
- 6.4.4 Only graves in which the last interment took place over 75 years ago would likely be selected for re-use. Graves would only be re-used where the full history of previous use exists within the cemetery records and registers, with the rights of registered owners of exclusive rights of burial needing to be considered.
- 6.4.5 Excavation down to the last interment would be necessary to ensure that all remains present are exhumed, collected and placed within a new container. Should multiple interments have taken place, further exhumations would take place to reveal, collect and re-containerise remains individually.
- 6.4.6 Once all remains have been exhumed and re-containerised additional depth should be excavated and the containers placed back within the grave. The new depth and position of each container so replaced within the grave would then be entered in the cemetery records and registers.
- 6.4.7 If this option was to be considered for Sandwell and either a private bill was passed in both the Houses, Parliament and Lords or, primary legislation permitted for the re-use of graves, it would likely be of benefit in only some towns in Sandwell by creating additional space for new burials.
- 6.4.8 Of the eight operational cemeteries, only Tipton, Heath Lane, Oldbury and Woodgreen cemeteries could be considered now. With the large capacity for new burials at Fallings Heath cemetery, this in reality negates the need to consider Woodgreen.
- 6.4.9 Tipton, Heath Lane and Oldbury cemeteries are however of the age where a reasonable amount of internments took place over 75 years ago.
- 6.4.10 Despite legislation for London Boroughs for almost 10 years now enabling public burial authorities in London to reuse graves, very few have done so citing issues with the sensitivity, consultation and memorialisation.
- 6.4.11 For the rest of the UK, successive Governments for decades have suggested their position continues to be “under review”.

6.4.12 Whilst presently a potential private bill laid before both houses would be necessary for Sandwell to re-use graves, there is no guarantee of success that those bills would be passed. In addition, the costs associated with this approach are unclear.

6.4.13 For the re-use of graves in Churchyards to be considered, any remains would need to be re-interred in consecrated ground. Under Church law a faculty (permission) only is required with each diocese setting its own 'best practice' guidelines on churchyard management.

## **7 STRATEGIC RESOURCE IMPLICATIONS.**

7.1 Expenditure associated with Registration related services is funded by the fees and charges that are applied to the services it provides. These charges are reviewed and approved annually by Council.

7.2 Burial and cremation fees in Sandwell are amongst the lowest nationally and the lowest locally which encourages families from across Birmingham and the Black Country to use Sandwell's bereavement related services.

7.3 For the financial year 2017/2018 the total income derived from Registration related services was £ £4,724,274, with income from burial related services being £1,566,850.

7.4 In the event bereaved families in Sandwell were to use services provided by other Burial Authorities locally to them, this would likely impact significantly on the income Sandwell receives for these type of services.

7.5 This impact would need to be assessed and mitigated against and would likely mean a reduction in expenditure would be necessary, potentially impacting significantly on the resources available to provide other burial and cremation related services.

7.6 In addition, bereaved families in Sandwell who use another Burial Authority would have to pay out of borough fees and charges. These families would likely need to pay between 100% to 300% more for similar services depending on which Burial Authority they use.

7.7 The development of a site as a new cemetery requires significant capital investment to ensure the facilities to be provided meets the needs of bereaved families. In addition, the management and operational costs also need to be considered.



- 7.8 Outline costs for example of the recent proposed development on Powke Lane Open Space at Rowley Regis as a new cemetery were estimated to be near £1.78million.
- 7.9 As with previous developments and modernisation projects for Registration Services, funding of similar projects has been facilitated by an increase in fees and charges.
- 7.10 In this instance, an increase in fees and charges of 3.25% above inflation would generate the necessary income to offset the capital investment to develop and operate this site as new cemetery.
- 7.11 Presently the re-use of graves is prohibited nationally except for in London boroughs only. A Private bill laid before Parliament and the House of Lords would be necessary to adopt this approach in Sandwell.
- 7.12 Although the estimated costs associated to move this approach forward are unknown, it is likely the external legal expertise will need to be secured.

## **8 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 8.1 The Council is permitted to charge fees relating to Registration Services by virtue of the Cremation Act 1902, the Cremation Regulations 2016, the Local Authorities Cemeteries Order 1977 and the Local Government Act 2003. Whilst the Council has discretion over many of the fees, a number relating to the registration of births, marriages and deaths are set by statute.
- 8.2 Buried human remains may not be disturbed without specific authority. Section 25 of the Burial Act 1857 makes it an offence to remove buried human remains without a licence from the Secretary of State or, in relation to ground consecrated according to the rites of the Church of England, a faculty (permission from the Church)
- 8.3 Sandwell has no legal obligation to act as Burial Authority.

## **9 EQUALITY IMPACT ASSESSMENT**

- 9.1 Whilst we cannot predict to what level the number of families who choose an alternative end of life option such as cremation to that of burial in the future, it is unlikely the demand for burial space will subside completely.

- 9.2 We can say this with a degree of certainty with certain community groups from different religious backgrounds such as Muslims, Jewish or those of the Catholic faith historically choosing burial as predominantly their only end of life option.
- 9.3 In the event, burial space wasn't available in Sandwell, these groups of people in particular will at some point be adversely affected compared to other community groups who choose cremation as an end of life option.

## **10 DATA PROTECTION IMPACT ASSESSMENT**

- 10.1 The proposals in this report do not relate to changes in the management of personal data, and therefore have no impact on data protection

## **11 CRIME AND DISORDER AND RISK ASSESSMENT**

- 11.1 There is no specific impact on crime and disorder as a result of these proposals.

## **12 SUSTAINABILITY OF PROPOSALS.**

- 12.1 There is no other sustainability impact other than those outlined in 6.1 ,6.2 or 6.3.

## **13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE).**

- 13.1 There are no health and wellbeing implications associated within this report.

## **14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND.**

- 14.1 The development of new cemeteries in the borough would likely be competing with current or potential alternative use of undeveloped sites across the borough.

## **15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

- 15.1 As with many Burial Authorities, Sandwell needs to consider its position in respect of future burial space.
- 15.2 Given the leading time necessary to potentially develop new cemeteries in the borough or to achieve the necessary legislative provision to re-use graves, Sandwell needs to ascertain now the importance it places on provision of burial space for bereaved families in the borough.

15.3 In the event a position on this matter cannot be determined (do nothing), bereaved families will eventually be required to consider alternative arrangements for their loved ones, in particular those families in West Bromwich and Rowley Regis.

16 **BACKGROUND PAPERS**

16.1 None.

17 **APPENDICES:**

None.

**Surjit Tour**  
**Director of Law and Governance and Monitoring Officer**