

# **Maintenance Strategy for Kingsway Closed Cemetery**

## **Introduction**

The Kingsway Closed Cemetery is not owned by Mildenhall High Town Council, but the Council has maintenance responsibilities for the site in its entirety. Within the context of management strategies and principles there are many variations of traditional cemetery management within a complex legal framework.

## **The use and context of the cemetery**

Closed cemeteries are generally ancient and are a significant part of our national heritage; in caring for a closed cemetery we accept we have a duty to ensure it is preserved for the present community, and handed on to posterity in a fit state.

The Kingsway Closed Cemetery fulfils at least three different functions. It was a burial place, it constitutes a visual and historic setting for the local community, and it has great ecological importance to local flora and fauna.

By long tradition, cemeteries have been the burial place of the remains of townsfolk. At present, Mildenhall High Town Council has burial space available at the Thetford Road Cemetery Site and its proposed extension.; however there exists a presumption that any part of a churchyard largely or entirely occupied with graves over a hundred years old could be considered for re-use (see St. Nicholas Swayfield, Lincoln Consistory Court, 2002).

New legislation being considered at present should also be born in mind as reuse may become a legal possibility in all burial grounds in the future. It is imperative that proper records of the burial ground are maintained. Should reasonably accurate records be available then there is always a possibility that previously closed churchyards may be able to be brought back into use as sustainable burial grounds for the local community should this be necessary.

The importance of the cemetery as a visual and historic setting is greater than is often appreciated. Standards of management should be high. Suitable maintenance for the area it lies within is essential, especially as it is an important habitat for a wide variety of plants and animals.

## **The legal framework**

Once a cemetery is closed, the Council must “maintain it by keeping it in decent order and its walls and fences in good repair.” (s.215(1), LGA, 1972). This included tombs. Monuments, war memorials and crosses etc. Again the maintenance of records remains very important given the possibility of new legislation on the reuse of burial grounds.

Questions often arise as to the precise standard of maintenance required of a local authority responsible for the maintenance of a closed cemetery. The Council has a duty “...to see that it be kept in a decent and fitting manner, that it be cleared of all rubbish, muck, thorns, briars, shrubs and anything else that may annoy parishioners when they come into it ...” Arguably, a failure to maintain a closed churchyard could expose an authority to actions under the Occupiers’ Liability Acts 1957 and 1984 and the Health and Safety at Work Act 1974, for any injuries to visitors.

Although not declared as public open space, the Council anticipates that members of the public will use the area to observe its wildlife and plants as well as for quiet contemplation.

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Therefore there is a duty of care to the users of the cemetery area, including members of the public who might visit or walk through it. This overall responsibility for the safety of the cemetery, including the risks arising from unstable memorials or tombstones, falls to the Council. This is despite the fact that the ownership of individual graves and memorials and the responsibility for their maintenance rests with the grave owners or families of the deceased, for in many cases there may no longer be an identifiable owner.

Where there is difficulty in tracing ownership/responsibility and a question of public safety arises then the Council has the powers to make the situation safe and recover any costs from the grave owners when they come forward or are traced. The Council must be aware though that if this is not possible then the final costs would remain with the Council.

Under Section 19 of the Disability Discrimination Act 1995, Councils have to take **reasonable** steps to remove, alter or provide reasonable means of avoiding physical features that make it impossible or unreasonably difficult for disabled people to gain access to graves and facilities within the cemetery. Therefore pathways have been constructed but access to the grave areas cannot reasonably be made safe for disabled use.

### **Revocation of Closing Orders**

Whilst current legislation is considered not to allow revocation of Closing Orders this matter may have to be addressed should reuse of burial grounds be permitted in the future. Reuse is currently being considered without the need to amend primary legislation, so consideration will first be given to whether reuse is possible within closed cemeteries on this basis. If this is not possible then it will take longer for primary legislation to be amended in respect of such closed cemeteries.

### **General Issues**

The maintenance strategy includes the following:

- Tree inspection and maintenance
- Memorial inspection and maintenance (for those plots with no contactable family)
- Maintenance of landscaped areas
- Historical and conservation management
- Maintenance of boundaries, gates and paths.
- Improvements and alterations

This area benefits the local community and could be part of local schools education and a possible Town Trail walk. This reinforces its importance to local people.

The Act requires councils to keep a record of the location of burial and reserved grave spaces within the cemetery. This record is essential for the ongoing maintenance of the site both in terms of historical record, identification of ownership, memorial management, improvement programmes and for the development of potential plans for reuse of graves should future legislation permit this.

### **Tree Inspection and Maintenance**

The Council is responsible for the maintenance of the trees as well as the shrubs and hedges. The responsibility relates to ensuring the safety of the public under the Occupier's Liability Acts 1957 and 1984. The Council has a tree maintenance policy to ensure the ongoing health and safety of trees within this area.

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### **Memorial Inspection and Maintenance (see policy)**

The main action points identified within this document can be summarised as follows:

- This is a documented memorial maintenance and safety policy for cemeteries.
- It enables a review of the memorials ensuring all aspects of memorial safety comply with national guidance.
- It contains agreed 'make safe' options and when they should be employed.
- It states standards of workmanship on memorial installation and repair.
- It stresses the importance of informing and contacting representatives of the bereaved wherever possible.

### **Landscape Maintenance**

This maintenance schedule clearly identifies all the expected standards of landscape maintenance:

- The frequency or number of grass cuts/strims to be carried out per annum (approx. every 10 days from April to September except any identified wildlife areas).
- The frequency of maintenance of shrubs/bushes (at least twice per annum)
- The frequency of weed killing (at least twice per annum)
- The frequency of mole trapping or control (as required)
- The conservation issues to be addressed (as noted on all site inspections)

An annual review will identify any areas for improvement required.

### **Historical and Conservation Considerations**

There are many native wildflowers and plants which must be preserved wherever possible. The Town Council has chosen to enhance the area in order to encourage the public to use it as a place of contemplation and observation.

To this end historical and flora and fauna information panels should be installed and maintained.

### **Maintenance of Boundaries, Gates and Paths**

Section 215 (1), Local Government Act 1972 states that the local council must 'maintain it by keeping it in decent order and its walls and fences in good repair.

- The hedges, shrubs, walling, gates, footpaths are included in a regular maintenance programme and all will be maintained, as far as possible, in good condition using traditional methods and materials wherever possible.
- As with other elements of cemetery maintenance there is a responsibility as owner occupiers of the land, that the council retain a primary responsibility for health and safety. Therefore there is a regular inspection programme and repairs are carried out as and when reported.