

REPORT TO ASSETS AND OPERATIONS COMMITTEE

ENVIRONMENTAL PERMITTING REGULATIONS



Report Reference A-21-15
Meeting Date 22nd November 2021
Agenda Item 6
Prepared by Town Clerk

1.0 BACKGROUND

The Department for the Environment, Food and Rural Affairs (DEFRA) has launched a consultation into amending the Environmental Permitting (England and Wales) Regulations 2016. The proposed changes affect burial authorities as they bring cemeteries into the scope of the regulations. It is therefore important that the council is aware of the proposals and submits a response to the consultation.

DEFRA has stated that is its policy to bring cemeteries into the scope of the regulations and accordingly this consultation is on the detail not the principle.

2.0 PROPOSED CHANGES

DEFRA proposes to publish 'General Binding Rules' for small scale (up to 100 coffin burials per year) cemetery operations and developments in low-environment risk settings. If a new cemetery development or burial in an existing cemetery cannot comply with the General Binding Rules, the operator will need to apply for a permit. The type of permit required will depend on the level of risk that the cemetery development or burial poses to the environment. If a permit is required, the cost will depend on the level of risk that the cemetery development or burial poses to the environment. These costs have not yet been finalised. However, it is anticipated that the cost of a standard rules permit for a medium-risk cemetery development would be around £850, and the cost of a bespoke permit for a high-risk cemetery development would be around £2,000.

The draft General Binding Rules are detailed in Annex A of this report. There are two rules which, under the present cemetery operations, would exclude the council from operating as an exempt operator.

The first is that a grave must be deep enough so at least 1 metre of soil will cover any part of the coffin or body; presently, under the Local Authorities' Cemeteries Order 1977 (LACO) the requirement is for 3' (90cm) or less if cemetery conditions allow. Whilst the additional 10cm could be factored in when preparing a new grave this rule would mean that for graves with existing burials there may be insufficient space to provide the 1m of soil above the final coffin. This would mean graves would reduce the overall capacity of the cemetery and may also affect planned interment arrangements.

The second is that a grave plot must not be less than 5m² in area. The council's plots are approximately 8ft long by 4ft wide, giving an area of 2.9m². Compliance with this rule would mean that the council's burial space would be almost halved and that many existing graves would be unusable.

Should the rules proceed, the council need to operate under a permit scheme. It is expected that the additional requirements of operating as a permitted cemetery would be outweighed by avoiding the

loss of burial provision and upset that may be caused to families in changing planned interment arrangements. It is anticipated this would be a medium-risk cemetery with an annual permitting fee of £850.

3.0 RECOMMENDATION

It is recommended that the committee:

- a) Notes the consultation and potential requirement for environmental permitting to be required in the future

- b) Authorises the Town Clerk to respond to the consultation setting out the impact it could have on the council as a burial authority and seeking an amendment to the draft rules to enable a cemetery with fewer than 100 burials per year to operate with standard sized graves and in accordance with LACO.

ANNEX A: DRAFT GENERAL BINDING RULES

The following conditions apply to any burials of human remains, other than a burial of human ashes from crematoria, within any existing operational cemetery or proposed new cemetery development.

1. A burial within a cemetery must not cause pollution of surface water or groundwater.
2. A burial within a cemetery must not be within 10 metres of any field drain, including any dry ditch.
3. A grave must have at least 1 metre clearance between the base of the grave and the top of the water table and must not have any standing water in it when dug.
4. A burial must not be undertaken directly into groundwater.
5. A grave must not be dug in unaltered or unweathered bedrock.
6. A grave must not be dug in an area susceptible to groundwater flooding.
7. A grave must be deep enough so at least 1 metre of soil will cover any part of the coffin or body.
8. A grave plot must not be less than 5m² in area.

The following conditions also apply to any proposed new cemetery development started on or after [Date] [Month] [Year].

9. The cemetery must not be located within a groundwater Source Protection Zone 1.
10. The cemetery must not be located within 250 metres of any well, spring or borehole that is used to supply water for domestic drinking or food production purposes.
11. The cemetery must not be within 30 metres of any spring or watercourse.
12. The cemetery must be located either:
 - 12.1 Entirely on strata which is unproductive strata. OR
 - 12.2 Entirely on strata which is a Secondary B aquifer or entirely on strata which is Secondary undifferentiated rocks, where the number of burials being less than 100 burials per annum. OR
 - 12.3 Entirely on a Secondary A aquifer, where the number of burials being less than 50 burials per annum OR
 - 12.4 Entirely on a Principal Aquifer AND not in a Source Protection Zone 2 where the number of burials being less than 30 burials per annum OR
 - 12.5 On any combination strata mentioned in condition 12.1, 12.2, 12.3 and 12.4, subject to condition 13.
13. Where a cemetery is, pursuant to condition 12.5, partly located on strata mentioned in 12.2, 12.3 or 12.4, the restrictions on numbers of burials per annum in condition 12.2, 12.3 or 12.4 (as the

case may be) apply to the area of the cemetery located on that strata.

14.The cemetery must not be in, or within 50 metres of, a Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar site or biological Site of Special Scientific Interest (SSSI), and must not be in an Ancient Woodland.

15.The cemetery must not need ongoing active control measures to be in place to protect the environment.