

AGENDA ITEM 12: APPENDIX H

WAVERLEY BOROUGH COUNCIL

EXECUTIVE – 30/09/2014

Title:

CEMETERY MEMORIAL SAFETY POLICY

[Portfolio Holders: Cllrs Simon Thornton and Julia Potts]

[Wards Affected: All]

Summary and purpose:

The purpose of this report is to request that the Executive adopt the Cemetery Memorial Safety Policy for the inspection of all memorials in open and closed cemeteries under the responsibility of Waverley Borough Council subject to any changes required by the Executive.

How this report relates to the Council's Corporate Priorities:

Leisure and Lives

This report contributes towards providing a safe environment for our residents when visiting Council run cemeteries.

Value for Money

This report seeks to achieve value for money by considering the options for dealing with unsafe memorials.

Financial Implications:

Presently any costs associated with memorial safety inspections, laying down of memorials or the repair of memorials will be funded by the existing limited cemetery budgets. However first call for any costs not being met by this budget and falling to the Council will need to be met by the urgent capital schemes budget 2014/15 as described later in this report. Costs are to be met from existing limited cemetery budgets, however the Council should be prepared to earmark up to £5,000 from the urgent capital schemes budget should the existing budget not be enough.

Legal Implications:

Introducing the policy and ensuring WBC/Glendale comply with it should limit our exposure to any occupier's liability claims or health and safety claims generally. By carrying out memorial inspections and any subsequent actions highlighted in the policy, Waverley Borough Council will ensure that they have carried out all of the obligations with regards to Health and Safety for any users of the Cemetery. The policy should further limit our exposure to occupier's liability claims under the 1957 Act.

Introduction

1. Waverley Borough Council manages and maintains 1 open cemetery and 9 closed cemeteries. The primary responsibility for Health and Safety lies with Waverley Borough Council, as it is the burial authority in control of these cemeteries; we have a duty of care under both the Health & Safety at Work Act 1974 and Occupiers Liability Act 1957. Waverley Borough Council is required to control the risks associated with any cemetery for which they have responsibility be they open or closed cemeteries.
2. The Ground Maintenance Contract requires Glendale to carry out inspections of all memorials in the cemeteries (see section 17.10 Contract for the Grounds Maintenance Service, Part One – Contract Specifications). Glendale have provided method statements and risk assessments which have been incorporated in to the Waverley Borough Council draft Memorial Safety Policy and are ready to start once approval is gained to adopt the policy.
3. Waverley Borough Council requires a Memorial Safety Policy to be adopted prior to Glendale commencing safety inspections. If unsafe memorials are found during the inspections, the policy will state the subsequent actions to be followed. The policy that has been drafted has been approved by the ICCM (Institute of Cemetery and Crematorium Management) and also follows Health and Safety Executive (HSE) guidance.
4. The main points of the Memorial Safety Policy are
 1. The aim of policy is to ensure all open and closed churchyards and cemeteries under our responsibility are safe places for visitors, staff and contractors
 2. Whilst the Council has the overall responsibility for the safety of a cemetery or churchyard, it does not own the memorials contained within a cemetery or graveyard
 3. The owner of a memorial is therefore responsible for maintaining a memorial in good condition. However in many cases there may be no identifiable owner or no way of contacting an owner
 4. The management of memorial safety is based on a risk assessment approach; the priority will be to identify those memorials which present an immediate and significant hazard and make them safe. Those that are of a lower risk will be identified and risk assessed again in a years time
 5. Prior to commencing memorial safety inspections the Council will need to follow the notification procedure set out under the Local Authorities Cemeteries order 1977, Schedule 3, considered as best practice. This involves erecting notices around the burial ground, in local papers and any relevant Religious Authority or Commonwealth Graves Commission
 6. Safety inspections will be undertaken as part of a rolling programme of annual, three and five yearly cycles depending on condition and risk assessment. All relevant details for each memorial will be logged and sometimes a photos will be taken.

Memorials not in imminent danger of collapse

5. Where an inspection has found evidence of movement in a memorial but it is not in imminent danger of collapse, our inspectors will inform WBC once the inspection of the site is complete.
6. A letter will be sent to the grave owner, if identified; informing of the state of the memorial and what remedial action is needed to repair and ensure the memorial stays safe and that they also must appoint a registered memorial mason to undertake works. Costs will rest with the grave owner.
7. If the owner is not found, the Council will risk assess the memorial and then re-test within a year. If the situation worsens, the Council will be faced with the choice to either; lay down, or, reinstate (incurring a repair cost dependent on size and damage).

Memorials in imminent danger of collapse

8. Where evidence is found of a memorial posing an imminent danger our contractor will immediately inform WBC officers, who will instruct a contractor to dismantle and make safe the memorial forthwith by laying down (there may be a small cost dependent on size). A notification sign will be placed on the grave informing the owner of our reasons for action and provide a contact number.
9. A letter will also be sent to the grave owner, if identified; informing of the dangerous memorial and what remedial action is needed to repair and make the memorial safe and that they also must appoint a registered memorial mason to undertake works. Costs will rest with the grave owner.
10. If the owner is not found, the Council will then face a choice of whether to reinstate the memorial (incurring a repair cost dependent on size and damage), or, keep the memorial laid down.

Risk management implications

11. At least eight deaths; many of them children, have occurred over the last 30 years from falling headstones in cemeteries, in addition to multiple injuries. The subsequent fallout from even the smallest accident would be costly to the Authority in both PR and financial terms.
12. Waverley Borough Council have responsibility for the overall safety within a burial ground under the Health and Safety at Work Act 1974 and the Occupiers Liability Act 1957 to ensure that, as far as reasonably practicable, sites are maintained in a safe condition. In order to comply with the Health and Safety at Work Act 1974, Waverley Borough Council intends to embark on a systematic programme of memorial inspections ensuring that any memorials that pose a risk to Health and Safety are made safe.

13. The strategic aim of this policy is to ensure that all open and closed cemeteries which are under the responsibility of Waverley Borough Council, are safe places for staff, visitors and all others who may visit or work in the cemeteries.

Costs associated with memorial inspections

14. In addition to the contract cost for monitoring and inspecting the Memorial Grounds which are included in the overall grounds maintenance budget, other financial implications could arise following inspections by WBC's officers should Waverley Borough Council need to employ structural engineers or wish to repair unsafe memorials with which no living owners can be found and the memorials have aesthetic or historical value.
15. Following a survey by an independent specialist across all 10 cemeteries sites that we manage we have been able to make a best guess of failure rate, of approximately 5%, which equates to approximately 150 headstones to reinstate. As headstones vary in shape and size, estimated repairs costs are £100 - £150 per headstone. Total costs could be £15,000 - £22,500.
16. However; the above costs will only apply if the Council decide to repair all headstones, rather than contact families who are responsible for grave upkeep and headstone repair, or, if the Council decide to lay down headstones rather than repair those where families cannot be contacted.
17. There is a cost to laying down headstones, however this will be less than repair costs and would generally cover labour charges or in special circumstances lifting gear to safely move heavy headstones or memorials (of which there are very few).
18. Any initial costs arising from memorial inspections, laying down or repairing of memorials could be met through the current limited budget for cemeteries. However should costs exceed the budget amount provision would need to be made to use the urgent capitals schemes budget 2014/15 of up to £5,000.
19. If urgent works arise in 2014/15 to address health and safety issues, officers will seek approval from the urgent schemes capital budget. The financial implications in future years will be discussed in the Star Chamber process in the autumn.

Conclusion

20. The intention of the Cemetery Memorial Safety Policy is to provide clear guidance to staff, contractors and the general public on how we intend to manage memorials or headstones in cemeteries to reduce any potential health and safety hazards in a site.
21. The laying down of memorials is a sensitive issue and would only take place in extreme situations where no owner is found, There will notices erected on site and notices in the local paper informing residents are the inspections and actions taken.

22. However we are required as a Council to take action to ensure the safety of the cemetery site. This does present the Council with a choice as to whether:
- a) It repairs or reinstates memorials where no owner can be found, an annual budget would need to be provided, or,
 - b) It approves the laying down of memorials where no owner can be found.
23. Regardless of the decision made on the above, there will be some financial costs associated with memorials, dependent on whether it is the laying down or the repairing of memorials and headstones.

Recommendation

It is recommended that the Executive gives approval to

1. the adoption of the Cemetery Memorial Safety Policy;
2. a policy for the laying down of memorials and headstones that are found to present an immediate danger to visitors to the site, where the owner cannot be found; and
3. the costs being met for laying down memorials from existing limited cemetery budgets and agrees to earmark up to £5,000 from the urgent capital schemes budget should the existing budget not be enough.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

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