

Scrutiny Committee



Report of Head of HR, IT and Technical Services

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Draft policy on burial grounds

Recommendation(s)

- (a) To note the cabinet's proposed policy on future burial ground provision.
- (b) To offer observations on the proposed policy.

Purpose of Report

1. To inform scrutiny committee of the cabinet's proposed policy on future burial ground provision, including the options that were considered and discounted, and to provide an opportunity to comment before a policy is formally adopted by cabinet.

Strategic Objectives

2. Helping provide services that meet residents' needs

Background

1. Local authorities are defined as burial authorities and given the power to provide cemeteries by the Local Government Act 1972. There is no statutory duty on a local authority (district, parish or town) to provide burial facilities, but if they do the management is governed by the Local Authorities' Cemeteries Order 1977.
2. The council currently provides land for burials in two council owned and managed cemeteries, one in Wallingford, one in Kidmore End. Across the district there is a mix of provision by churches and parish/town councils.

3. In a cemetery, grave space and memorial space for ashes is flexible. If one runs out, space from the other can be used. Memorial plots take up much less space than graves. Not all land is suitable for burials due to the environmental criteria for burial grounds, regarding the height of the water table and geology.
4. Historically, burial was the preferred post funeral option but more recently the trend has been moving away from burial to cremation. In 1960 35% of funerals resulted in a cremation, in 2008 that had risen to 74% which appears to be relatively stable. Clearly cremation reduces demand for burial plots.
5. There are crematoria in Oxford, Reading, Newbury and a new private establishment at Garford just outside Abingdon. All offer memorial plots for ashes. There is also at least one privately operated commercial burial ground in South Oxfordshire, at Rotherfield Greys outside Henley, with capacity of around 5000 plots.
6. A national review by the Ministry of Justice in 2007, 'Burial Law and Policy in the 21st Century – The Way Forward' (BLP: 2007) found that there was growing evidence of shortages of burial space in some areas. It concluded however, that the government would not reform the current regime to create new statutory obligations to provide burial facilities, provide statistical data, or develop new inspection or enforcement arrangements. It stated that it would make legislative changes as and when the need arose and would provide guidance.

Burial capacity across the district

7. As of January 2016 the council owned site at Wallingford site had grave capacity until 2040, slightly less for memorial plots. Kidmore End had grave capacity until 2030, again slightly less for memorial plots. See appendices A and B.
8. Officers contacted each parish council and many of the churches in the district to determine the available burial capacity. Figures for about three quarters of the 87 town/parish areas in South Oxfordshire were obtained. A summary of the information obtained is presented in appendix C.
9. Of the 67 parishes/churches who provided information, two currently have no capacity and 12 have stated that they have capacity for 10 years or less. Of these 12, six have plans at various stages of development to supply more capacity. Of the remaining parishes, 22 have capacity that they state will last between 10 and 20 years. At the other end of the spectrum 31 parish areas report having capacity in excess of 20 years.

Uncertainties

10. The data on burial capacity across the district is incomplete. All areas were contacted, but it has not been possible to get data for all of them. Where data has been provided it is usually a best guess from the person who appeared best qualified to provide the information. Also, the capacity stated relates to current demand rates and it does not account for unpredictable events which may significantly increase mortality such as a flu pandemic for example.

11. Current demand predictions do not consider housing/population expansion in the district, nor can they account for ageing populations.

Initial policy options

12. The following four options (A-D) were considered and are presented with an assessment of the potential benefits and risks.

A - Do nothing

13. The council has no legal duty to provide burial sites, so when current capacity in council owned sites is filled they could be closed. If town or parish councils wish to facilitate additional burial capacity they can allocate land through their own neighbourhood plans.
14. Local communities are considered best placed to identify, allocate and acquire land for the communities they serve. Indeed many parish councils, who have limited remaining burial capacity, are investigating and acquiring further land.
15. BLP: 2007 found that there was strong community association with their burial grounds and local competence to plan and deliver future capacity. In the absence of an allocation through district council land allocations or parish neighbourhood plans, communities can apply to change the use of land with a planning application.

Benefits

16. This option requires no further financial commitment from the council beyond maintaining the currently operational sites when they close.
17. Parish councils are considered well placed to provide burial grounds for their communities.

Risks

18. Potential negative feedback/ reputational damage as current facilities close.

B - Allocate land through forward planning process

19. Where it's possible to demonstrate a local need (with evidence), land could be allocated in the emerging local plan and a policy developed to ensure that provision and ongoing maintenance is put in place alongside new developments, potentially utilising S106/developer contributions funding.

Benefits

20. Low capital cost as it only requires officer input to develop policies.

Risks

21. The council will not have to consider reputational damage or adverse reactions to stopping an existing service.

22. The new local plan 2033 is currently being developed and burial capacity policies will need progressing quickly to ensure that they are ready in time.
23. Developer/landowner reluctance to offer sites for uses less lucrative than housing.
24. Land identified needs to be suitable for burials (drainage and height of water table), so requires considerable detailed work at an early stage.
25. Ongoing maintenance and responsibility is secured

C - Make funding available to others

26. The council could incentivise parish councils to develop more burial capacity by offering grants for land acquisition. The council should not offer funding to the church as the council have to take maintenance responsibility when church sites are closed, but don't have to take on parish council sites.

Benefits

27. Depending on how a scheme is constructed, parish councils could contribute to the financial cost, reducing the cost relative to the council developing facilities alone.
28. Parish councils would be responsible for maintaining sites when they were closed.
29. Facilities developed close to and by the communities that use them.

Risks

30. Lack of council control, Parish councils may not develop new sites.

D - Buy land and continue to operate site(s)

31. The council could allocate monies to purchase land and develop new burial capacity in one or more locations. Specific costs are not known, but are understood to be in the region of £200,000 a hectare. Current uncertainty about housing land supply may make land more expensive to purchase. Taking account of landscaping areas and access roads, a hectare can accommodate approximately 2500 graves. At current usage rates for both council owned sites (of 40 burials per year) a hectare would last just over 60 years.

Benefits

32. Council can control development and use of the site.

Risks

33. High capital costs.
34. Ongoing management and legacy costs which increase council liabilities.

The policy direction

35. Following consultation with the cabinet portfolio holder, supporting future burial provision using planning policies, option B above, has been investigated in more detail.

District local plan

36. In order to properly consider the issue of future provision in a planning context there are three broad steps: first, consider national policy and guidance; second, gather evidence for the existing burial capacity in South Oxfordshire and third, develop a strategy to deal with any identified issue.
37. There is no statutory guidance or policy for “burial capacity” in the National Planning Policy Framework (NPPF) or Planning Practice Guidance.
38. Information on unmet future demand for burial land across the district is incomplete and the situation varies across the district. Some areas have limited capacity, others have many years of provision.
39. The council could undertake a site selection and allocation process in the same way as for housing (for example). Allocating land would show a commitment to finding a solution to an identified problem, but this is only likely to be the most appropriate course of action where the need is most acute.
40. In the absence of evidence of an acute district wide need we could identify burial capacity as an infrastructure requirement in the Infrastructure Delivery Plan (IDP), and potentially the Reg. 123 list. We can pursue funding or obligations/Community Infrastructure Levy (CIL) derived from development for its delivery. The risk with this approach is the cost of land and the willingness of land owners to accept a cemetery rather than a more valuable land use such as housing.
41. Recognising a mixed burial capacity picture across the district, an alternative solution is that larger scale strategic housing sites have burial capacity identified at an early stage allowing it to be added in to the developments open space allocation. This is likely to be more straightforward to justify because new larger scale developments should include appropriate community facilities. Officers understand that this option is already being considered for the Didcot Garden Town expansion project.

Neighbourhood development plans

42. Neighbourhood planning gives communities the power to manage development in their areas where it aligns with the wider local plan. Neighbourhood planning is a power available to communities, but there is no requirement to develop a plan. Communities might wish to develop a neighbourhood plan, but equally may also feel that it's more appropriate to achieve their ambitions by contributing to the district council local plan. Partnership working between communities and district and parish/town councils is key to achieving community ambitions in the most effective way.

43. The district council is keen to encourage the development of neighbourhood plans in all areas across the district and is assisting communities in developing and adopting these plans. A number of neighbourhood plans are already in place, mainly in the larger towns and villages and more are in development.
44. Communities having identified a need for further/future burial provision could add this in to their neighbourhood plans and encourage delivery of provision in this way.
45. Parish and town councils are burial authorities and where they have a neighbourhood plan in place could buy land when the funds are available. Some of the “meaningful proportion (25 per cent)” of CIL money could be used by parish/town councils to purchase land.
46. Community provision through neighbourhood planning resonates well with national government policy on burial ground provision being done at a community level (BLP:2007), and also with the district council’s aim to encourage communities to develop, and keep under review, their own neighbourhood plans.

Potential policy options around planning policies

47. The following four options have been drafted to assist cabinet in considering how a policy might be worded.

Potential policy one

48. South Oxfordshire District Council will facilitate provision of burial capacity across the district by developing planning policies in the emerging Local Plan 2033.

Potential policy two

49. South Oxfordshire District Council where appropriate will support communities in developing neighbourhood plan policies to support the provision of future burial capacity.

Potential policy three

50. South Oxfordshire District Council will consider the inclusion of burial provision in its open space requirements for larger scale strategic housing sites **and** where appropriate assist communities in developing neighbourhood plan policies to support the provision of future burial capacity.

Potential policy four

51. South Oxfordshire District Council will facilitate provision of burial capacity across the district by developing planning policies in the emerging Local Plan 2033 and will assist communities in developing neighbourhood plan policies to support the provision of future burial capacity.

The draft policy

52. Cabinet members are minded to support a policy along the lines of policy option four above. They have suggested that this draft policy is presented to scrutiny committee for observations before returning to cabinet for confirmation.
53. Cabinet members have also asked officers to approach district councillors to see if they could provide any information on burial capacity in their wards, where no information had been provided to date, and ask for more information on any plans for future burial provision in areas with limited capacity. This process has been started and the further information obtained has been added to the information presented in Appendix C.

Financial Implications

53. The financial implications of the proposed policy are limited. Planning policies need to be evidence based and the current information on burial capacity is incomplete. Collecting an evidence base to support planning policies in the local plan may require some external assistance, the specific costs of which are not known but are likely to be relatively small.
54. The council is already committed to supporting parish and town councils with the development of neighbourhood plans and the additional support regarding this policy area will be deliverable from current resources.

Legal Implications

55. There are no legal implications from the implementation of the proposed policy.

Risks

56. There is a small risk that the proposed burial provision policy may result in a shortage of burial capacity in the district after sites at Wallingford and Kidmore End close. Given the current mix of parish/town council, church and private burial provision, combined with consideration of future planning policies this eventuality is considered unlikely.

Other Implications

57. None

Conclusion

58. The scrutiny committee is invited to note cabinet's proposed policy on future burial provision and to offer its observations.

Background Papers

- Appendix A - Burial capacity in Wallingford, January 2016
- Appendix B - Burial capacity in Kidmore End, January 2016
- Appendix C - Burial capacity survey, October 2016