

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**LEISURE and ARTS ADVISORY BOARD**

**22 May 2007**

**Report of the Chief Leisure Officer**

**Part 1- Public**

**Matters for Information**

**1 MEMORIAL SAFETY INSPECTIONS – TONBRIDGE CEMETERY AND CLOSED CHURCHYARDS**

**Summary**

**This report updates Members on actions taken in preparation for memorial safety inspections at Tonbridge Cemetery and the Closed Churchyards in Tonbridge. The report advises on the future programme of works, and liaison with grave owners.**

**1.1 Background**

1.1.1 At the 8 January 2007 meeting of the Leisure Facilities, Culture & Youth Advisory Board, Members were reminded of the Ombudsman's Special Report regarding memorial safety in local authority cemeteries. The Council's current position in respect of memorial safety was highlighted and proposals for memorial safety inspections within Tonbridge Cemetery and potentially the Closed Churchyards in Tonbridge, were outlined and approved by the Executive Member (Decision Number D070009MEM). A Memorial Safety Policy and Memorial Testing Policy were also formally adopted at the meeting.

**1.2 Tonbridge Cemetery Memorial Inspections**

1.2.1 In accordance with the approved way forward the following actions have been taken in preparation for inspections at Tonbridge Cemetery.

1.2.2 Computerisation of Cemetery Records - It is essential that the Council is in a position to correspond efficiently and promptly with existing grave owners throughout the entire memorial inspection programme. The Cemetery does currently operate a computerised management software package (BACAS) and new data is being entered into the system. There was, however, a need to transfer backdated information (paper copies) relating to memorial and grave ownership onto this system. It is essential that this work is completed prior to the planned inspection as this system will be vital in administering correspondence with grave owners. The updated BACAS system will also allow the formal

memorial inspection to be recorded electronically. I am pleased to report that this work is nearing completion and should be finished by the end of May 2007.

- 1.2.3 Commissioning of the Works - In accordance with the Council's Contract Procedure Rules, quotations have been sought from suitably qualified specialist contractors to progress the inspections and undertake necessary works. The quotations are currently being evaluated and the successful contractor will be appointed by the time of the meeting. Subject to liaison with the selected contractor, it is proposed that the inspections commence in July 2007.
- 1.2.4 Pre-Inspection Advice and Information - An initial information article was placed in the February/March edition of the Council's residents' newspaper Here & Now. A further article appeared in the Courier newspaper on 12 January 2007 advising on the Council's proposals for inspections.

Advisory information has been displayed in local churches in Tonbridge and on site at Tonbridge Cemetery.

A dedicated web page has been added to the Council's website and, taking the form of Frequently Asked Questions, aims to assist the public with any queries they may have on the proposed inspections. Reference to the new web page was added to TMBC's Home Page under the 'Stop Press' section to ensure public awareness.

Three reports have been brought to this Board in order that Members are kept informed on progress.

- 1.2.5 Future Advice and Information – The Ombudsman's Special Report recommended where possible to advise existing memorial owners (up to 6,000) on the Council's proposals to carry out memorial safety inspections and advise them on any implications that may arise. This will be carried out by contacting last known grave owners in writing, and letters are due to be sent out in June 2007. Liaison is currently taking place with the Local Government Ombudsman regarding how many years the Council should go back in its records to send out letters to grave owners. In the meantime, following liaison with the Chief Solicitor, it has been established that, unless any other specific arrangements have been agreed, responsibility for all memorials over 100 years will revert back to the Borough Council. Taking this into consideration it is, therefore, proposed that letters are not sent to grave owners, where the records are over 100 years old.

An open morning will be organised at Tonbridge Cemetery, where the selected contractor will be in attendance and the public will have the opportunity to see a demonstration of how the inspections will be carried out and ask any further general queries prior to the commencement of the works.

A similar additional open morning will also be organised for Members to attend and I hope to be able to update Members on specific dates at the meeting.

A further article will appear in the June/July 2007 addition of Here & Now highlighting more detailed information on the inspections. This publication is due for distribution early June 2007.

In liaison with the Council's Media and Communications Manager the Borough Council will brief the local press on the proposed works during May/June.

Further to the information already posted on site, it is proposed that additional advisory signs are located at the main entrances and tap points at Tonbridge Cemetery throughout the month of June. These signs will reinforce literature already posted and advise on commencement dates for the inspections.

### **1.3 Closed Churchyards**

- 1.3.1 As the Burial Authority, the Borough Council does have a legal obligation for health and safety at Closed Churchyards. In all other areas of the Borough this responsibility is devolved to Parish Councils, but in the absence of this level of authority in Tonbridge, responsibility for Closed Churchyards in the town remains with this Council.
- 1.3.2 The Borough Council has responsibilities for two Closed Churchyards in Tonbridge, St Peter & St Paul's and St Stephens, which contain 774 and 46 memorials respectively.
- 1.3.3 At present the Borough Council is in liaison with both Churches, advising each on the Council's current and proposed approach to memorial safety at Tonbridge Cemetery. Following these discussions a programme for memorial safety at the Closed Churchyards will be developed and, subject to timing, may be incorporated within the programme for Tonbridge Cemetery.
- 1.3.4 With regard to St Peter and St Paul's Church liaison has been carried out with the Church Warden who has indicated that, in principle, inspections could be carried out alongside those at Tonbridge Cemetery. Clarification is still to be sought on the level of financial support that can be offered by the Church to assist with the inspections and any remedial works. Formal approval for the memorial inspections is awaited from the Parochial Church Council. It is anticipated that all the memorials at the Church are over 100 years old and, therefore, the distribution of pre-inspection advisory letters may not be applicable. This decision will need to be confirmed by the Church Council.
- 1.3.5 With regard to St Stephen's Church liaison has been carried out with the Church Warden who has indicated that, in principal, inspections could be carried out alongside those at Tonbridge Cemetery. Therefore, the Church Warden is currently researching memorial ownership in anticipation of advisory letters being sent out to individual owners. Clarification is still to be sought on the level of financial support that can be offered by the Church to assist with the inspections and any remedial works, and formal approval for the memorial inspections is awaited from the Parochial Church Council.

## **1.4 Legal Implications**

- 1.4.1 The sole responsibility for safety in public cemeteries rests with the burial authority. In common with all other local authority cemeteries, people do not buy graves but they buy the right to be buried in a specific place in the cemetery. The owner of the burial right may decide who is buried in a given plot and the length of the right depends on the terms of the grant (currently 60 years at Tonbridge Cemetery). Persons holding a Right of Burial can also choose, by agreement with the Council, to erect a memorial on the grave space at their own expense for the duration of the lease. The agreement states that the Council does not accept responsibility for the future maintenance of the memorial. However, the Council has an obligation under the Occupiers' Liabilities Acts 1957 and 1984 to ensure that persons visiting the Cemetery are not exposed to risk of injury. Likewise, under the Health and Safety at Work, etc. Act 1974, the Council has similar duties towards its employees, contractors and others. Therefore, whilst the owner of the memorial has responsibility for its maintenance, it is important that the Council is aware of any potential dangers and takes action to avoid injury.

## **1.5 Financial and Value for Money Considerations**

- 1.5.1 An allocation of £50,000 has been made in the current financial year of the Capital Plan to fund the inspections and associated works.

## **1.6 Risk Assessment**

- 1.6.1 The Ombudsman advises that councils must have a system for assessing the risk posed by individual unstable memorials, and the appropriate choice of remedy to meet that category of risk. This issue has also been identified within the current Outdoor Leisure Operational Risk Register.

Background papers:

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Nil

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