



Provision of a New Cemetery at North Waltham

**Cllr Hayley Eachus, Cabinet Member for Regulatory Services
and the Environment**

Cllr J Izett, Cabinet Member for Property and Development

| | |
|--------------------------|---|
| Report to | Cabinet |
| Ward(s): | All |
| Key Decision: | Yes |
| Appendix 1: | North Waltham Proposed Cemetery site location plan |
| Appendix 2: | North Waltham Existing Crematoria site location plan |
| Appendix 3: | Financial implications |
| (confidential) | |
| Appendix 4: | Dignity proposal |
| (confidential) | |
| Appendix 5: | Summary Heads of Terms (proposed lease) |
| (confidential) | |
| Appendix 6a/b: | General layout and landscaping proposals |
| (Confidential) | |
| Papers relied on: | None |

FOREWORD

**Cllr Hayley Eachus, Cabinet Member for Regulatory Services and the
Environment**

This report sets out the options that have been considered in relation to the delivery of the new Cemetery service at North Waltham.

The council is obliged to ensure that we get the best value for residents, now and in the future. It is, therefore, important that we consider all options and deliver the best solution possible for future cemetery provision in the borough.

From the options available in this report it is recommended to enter into a lease arrangement with Dignity who would take on responsibility to deliver the new Cemetery service, in accordance with the council's requirements.

This option will provide our residents with affordable and sustainable bereavement services in the borough.

Cllr John Izett, Cabinet Member for Property and Development

This proposal is an example of how the council can proactively utilise its land interests to help support and facilitate the delivery of a comprehensive bereavement service by a quality private provider, whilst at the same time ensuring that the council obtains value for money and terms favourable to the council, to protect its long term property interests.

Recommendation to Cabinet:

- Approves the option for Dignity to provide a cemetery linked under the one site solution which includes the operation of the current crematorium. In accordance with this option, for the Council to enter into an agreement for a lease with Dignity and then complete a new lease (concurrently with the surrender of the current lease) on the obtaining of planning permission for the provision of a cemetery at the North Waltham site.
- Delegates the detailed terms and conditions associated with the agreement for lease, surrender of the current lease and grant of a new lease, and any other supplementary legal, management of other agreements that may be required to facilitate delivery of the proposed new cemetery service under the one site solution, to the Executive Director of Borough Services and the Executive Director of Finance and Resources in consultation with the Head of Law and Governance.
- Approves the recommendation for officers to develop and implement a pilot travel scheme to test community bus provision against other options as set out in this report. This approach will allow ongoing evaluation of demand whilst identifying the most suitable and viable solution.

BACKGROUND, CORPORATE OBJECTIVES AND PRIORITIES

This report accords with the council's Budget and Policy Framework and supports the following Council Plan priorities:

Improving resident's quality of life:

The proposals outlined in this report would secure long term service provision, provide greater choice of cemetery services in a way that enhances our rural landscape whilst providing a place of remembrance for the bereaved.

Creating an organisation capable of delivering change:

The proposals outlined in this report will provide the council with the opportunity to provide a more efficient cemetery service by delivering the service in partnership with the private sector.

And, as a supporting priority:

Investing in infrastructure:

The proposals outlined in this report will make the best use of the council's land assets in supporting services, and working in partnership to deliver the necessary infrastructure into the future.

MAIN CONSIDERATIONS

1 Executive Summary

- 1.1 Local Authorities do not have a statutory duty to provide cemeteries. The council's legal responsibilities are limited to public health funerals and closed churchyard maintenance.
- 1.2 Worting Road Cemetery is reaching capacity and new non-denominational and Christian grave spaces can only be purchased until January 2020. With the pending closure of Worting Road the Council took a decision in 2014 (Decision Notice 65/2014) to make ongoing provision for a cemetery in the borough to provide for borough residents.
- 1.3 Following this decision and the subsequent evaluation of a number of potential sites, in 2015 the council purchased a site at North Waltham (shown outlined red at Appendix 1), so it could be developed as a new cemetery for the borough. The council also owns the freehold of the land adjacent to the outlined red land, as shown coloured blue at Appendix 2 and which is leased by the council to Dignity Funerals Ltd, by way of a 125 year lease commencing in 1998.
- 1.4 Three options for delivery of a new cemetery site in North Waltham have been considered, as outlined in more detail later in this report. The financial implications for these options are set out at Confidential Appendix 3.
- 1.5 This report provides a summary of the work undertaken by Officers and seeks Cabinet approval on the recommended option for the delivery of the new cemetery site in North Waltham.

2 The Proposal

- 2.1 The opportunities presented by working to deliver services with the private sector highlight the need to review all options for provision of the new cemetery, which include an option for the cemetery service to be delivered by Dignity.
- 2.2 Following extensive discussions over the last year Dignity have developed a detailed proposal which addresses all council requirements and additional items. Key positive aspects of the proposal include:
- A stated 'one site philosophy' for the comprehensive development and future delivery of all bereavement services at North Waltham, which include the existing crematorium site and the recently acquired cemetery land; and to include a single point of contact available for Basingstoke residents.
 - Operational layout and landscape plans which reflects the holistic site proposal.
 - Agreement with Dignity, that they will prepare and submit a full planning application, and with general reference to the council's existing outline planning consent. The application will be at their own cost based on the one site philosophy. Dignity have offered to present their proposals to members, and to arrange for members to visit the site to explain the proposals in more detail.
 - That the construction and delivery of the new site including physical and aesthetic links to the current crematorium will be implemented entirely at Dignity's cost in accordance with the agreed one site philosophy. The plans and delivery timetable will be set out by Dignity in consultation and agreement with the council.
 - Provision of up to 25 public health funerals per annum, at no cost to the council.
 - That provision of burial services will formally be made available to the Borough's residents, in addition to those provided at Worting Road, with effect from April 2019 and that Dignity will, in line with the one site philosophy, utilise the burial land allocated within the crematorium site ahead of development of the new area.
 - Options for Basingstoke to receive a competitive share of Dignity's revenue from all cremations and burials undertaken with effect from April 2019.
 - A clear, unequivocal and positive statement from Dignity with regards local Monumental Masons and funeral directors and which will be supported in their standard operating practice and in all publicity for their customers.
- 2.3 Dignity have indicated that, in developing the new cemetery site on the land outlined red at Appendix 1, they will utilise the entire site and which given its extent, enables them to offer a wider choice of bereavement services to customers.
- 2.4 As services at Worting Road Cemetery will continue to be provided by the council, if Dignity deliver future cemetery provision it is proposed that in-house expertise be utilised to enhance the high standards of customer interface already provided by Dignity at North Waltham. In addition to an annual

meeting with Dignity to ensure continued good practice and service management, and operational compliance, the council will have the ability to respond to customer and member concerns and ensure positive communication channels.

- 2.5 Throughout the negotiations with Dignity, care has been taken to ensure that the customer experience currently achieved by the council is reflected in the Dignity proposal and we have been reassured that their current service and practice will meet or exceed this.
- 2.6 These general principles may be incorporated as terms within a new lease or as an appendix to the new lease, for example as an agreed code of practice and management agreement. It is anticipated that, wherever possible, all documentation will be covered within and under the auspices of the new lease.
- 2.7 The current lease for the crematorium site to Dignity provides an annual rental of £31,060pa, with the terms of this lease focussed on the construction, and subsequent operation of the crematorium. The crematorium lease was completed very much on the basis of the council taking an arms-length approach to the crematorium's day to day operational management, and ensures that whilst a rental return is achieved, all costs, outgoings and maintenance are the responsibility of Dignity.
- 2.8 Should the decision be taken to extend the relationship with Dignity to include the proposed cemetery site, it is intended that the current lease of the crematorium site will be surrendered and a new consolidated lease granted for the entire site (the red and blue areas at Appendix 1 and 2) and in accordance with the 'one site' philosophy. The new lease will contain appropriate conditions which ensure proper future management of both the crematorium and cemetery areas, a suitable financial return for the council as set out in this report and importantly, that Dignity take responsibility for day to day management and payment of all running costs.
- 2.9 The lease terms will include the requirement for Environmental liabilities to be met at the lessee's cost, and a requirement to cover ongoing maintenance and management of the site. It is also intended that an agreed code of practice and management agreement, which reflects the industry's national standards, will be included within the lease.

3 Key Issues for consideration

Legislative and liability considerations

Public health funerals

- 3.1 The provision of cemeteries is not a statutory requirement on Local Authorities, however under the Public Health (Control of Disease) Act 1984 (Section 46) the council has a statutory duty to bury or cremate a person, who resides within the borough, when relatives cannot be found, or relatives cannot afford to pay for the funeral.

Groundwater protection

- 3.2 The potential for burials to discharge pollutants to groundwater is controlled by the Environmental Permitting Regulations under the Groundwater Daughter Directive 2006/118/EC.
- 3.3 Guidance for groundwater protection was updated by the Environment Agency in May 2017 with additional restrictions and requirements imposed. It is possible that, in future, guidance will become more stringent, potentially leading to the requirement to install expensive pollution control measures. If the council continue to directly provide and manage future cemetery provision, there will be future cost implications and to include any as yet unknown future statutory requirements.

Maintenance of closed cemeteries

- 3.4 Further under Section 215 of the Local Government Act 1972 the responsibility for maintenance of a closed churchyard may be transferred from the parochial church council to the Parish Council and subsequently, the local authority. Consequently, the council will also need to fulfil legislative obligations to maintain closed churchyards, including memorial safety inspections and repairs.

Worting Road Cemetery

- 3.5 Worting Road Cemetery is expected to reach capacity for new grave spaces on the nondenominational and Christian sections in January 2020. However, taking into account pre-purchased grave spaces, the operational life of the site is anticipated to continue for at least 60 years after that date. Current estimates indicate that provision for the purchase of grave spaces within the Muslim and Jewish sections can be provided until 2032, grave spaces within the Nepalese and Buddhist section can be provided until 2047 and infant plots can be provided until 2022. In addition, there are areas within the cemetery that can be developed to provide sections for the burial and memorialisation of cremated remains for the next three to five years.
- 3.6 The ongoing management of the current and historic cemetery service has been fully evaluated as a part of the current programme of work, this has included:
- A detailed estimate of potential future liabilities associated with closed churchyards not currently managed by the council.
 - Consideration for a customer led client role undertaken by the Operational team to provide support for local residents and members in the future should the decision be made to enter into a lease agreement with Dignity.

Dignity proposal

- 3.7 Dignity Funerals Limited is the foremost and largest, private sector cemetery and crematoria operation in the UK, running 45 crematoria, 5 owned cemeteries and a further 15 cemeteries managed on behalf of local authorities.
- 3.8 Dignity employees form a key part of the high levels of service standards and are critical to the continued success of Dignity. Dignity's Customer Service Centre was voted number one in the Contact Centre Awards for three

consecutive years and customer satisfaction is a key priority, with 98% of their clients saying that they would recommend them.

- 3.9 Dignity are a reputable organisation who specialise in funeral services. The strengths of Dignity's position include:
- The scale and financial resilience of the company, an example of this is that competition within the funeral services sector over the past few years have caused significant reductions in some areas of service for Dignity however, this has not impacted significantly on their overall business model or profitability.
 - Vast experience in the operation of crematoria and cemeteries, plus as funeral directors.
 - Local experience with regard to the provision and successful management of cremation and burial services, and which includes the crematorium service provided at North Waltham.
 - The ability to provide a wide range of options for bereavement services, for type of plot, for ash and coffin burial, and the types of memorial.
- 3.10 The council sought advice from a national cemeteries expert, Peter Mitchell, who provided a positive assessment of the opportunity for a cemetery to be delivered and managed by the private sector and by Dignity specifically, and his assessment supported the recommendation for continued discussions with them. The following essential criteria were established prior to entering into negotiations with Dignity:
- Any future cemetery provision in the borough would cater appropriately for all recognised faiths and groups.
 - A charge for standard burial provision be made available to borough residents based on the council's current fee structures, with an agreed review process.
 - Appropriate branding to link the service to Basingstoke and Deane Borough Council be agreed.
 - That local monumental masons and funeral directors are not disadvantaged as a result of any arrangement made with Dignity
- 3.11 With reference to planning and landscaping, in particular it has been important to ensure that in discussions with Dignity that the council's objectives for future delivery of the cemetery service be understood and reflected in any proposal and which would form the subject of any future planning application.
- 3.12 From an operational and landscaping perspective, officers advise that Dignity have fully understood and reflected the input of officers comprehensively into their layout drawings; please refer to high level details provided at Confidential Appendix 6. Furthermore their proposals for the inclusion of advanced planting of the site's boundaries and specimen trees within the site and in advance of the operational use of the cemetery land, (entirely at their own expense), provides a credible level of commitment to the long term vision of the project.

- 3.13 Dignity hold a comprehensive management plan for all cemetery sites with clear written procedures for recording and administrative tasks. Officers agree that their management plan and procedures meet legislative and operational expectations for cemetery management.

4 Options Analysis

- 4.1 Officers have given consideration to the following options available to the council for future cemetery provision.

Option 1 - To withdraw from the delivery of a non-statutory service

- 4.2 The provision of a cemetery service is not a statutory duty and as such is one which Cabinet could elect for the council to discontinue. Under this option the council would still need to continue to manage the provision of the Worting Road cemetery and closed churchyards in perpetuity but would not make any future provision or arrangement for a new cemetery in the borough.

- 4.3 The implications of this option would be:-

- No control or influence for new cemetery provision within the borough and no ability to influence burial fees charged.
- No income from a partnership arrangement.
- There could however be a potential capital receipt from the sale of the North Waltham site (outlined red at Appendix 1).

Option 2 - Directly develop and manage the new cemetery

- 4.4 Under this option the council would directly develop and manage the new cemetery at North Waltham in addition to the Worting Road site and closed churchyards. The council would invest in the development of the site and chapel at North Waltham and operate it in competition with the adjacent burial facilities offered by Dignity. This option would require significant capital and revenue funding as set out in the financial implications at Appendix 3.

- 4.5 The implications of this option would be:-

- Full control and delivery of the new provision within the borough.
- Investment in a new facility but with all associated operational and environmental costs and liabilities in perpetuity.
- Some income related to provision of burial services to partially offset the operational costs.

Option 3 (the preferred option) - Enter into a lease and management agreement with Dignity for cemetery provision at the North Waltham site

- 4.6 As set out in this report, under this option the council would enter into a lease agreement for cemetery provision to be provided by Dignity at the North Waltham site whilst the council will continue to operate the Worting Road site and closed churchyards.

- 4.7 The implications for this option would be:-

- Full agreement with Dignity via the lease that all council key provision requirements, listed under paragraph 3.10, will be met in delivery of services for Borough residents at the new site and that the lease terms ensure full compliance with all cemetery regulations and codes of practice.
- Development, delivery and operation of a new cemetery by Dignity at their entire cost with operational and management linkages to the currently provided crematorium to create a one site solution for services to the bereaved at North Waltham.
- An income share agreement with Dignity to include all new and existing bereavement services provided at North Waltham.

4.8 **Option 3** is the preferred and recommended option. It offers the council greatest control and influence for future service provision within the borough, whilst reducing the council's likely future expenditure and maximising the potential for income.

CORPORATE IMPLICATIONS

5 Legal Implications

- 5.1 Advice throughout the consideration of the proposal has confirmed that a lease agreement in accordance with an accepted proposal from Dignity would be entirely appropriate from a procurement and legal perspective. There are currently only two main suppliers who could conduct this type of activity at the scale and duration required in order to mitigate potential future third party challenge. Officers approached the other main supplier, The Westerleigh Group who have confirmed that, if the opportunity was presented, they would not be interested in remotely managing a cemetery service at the North Waltham site and would therefore not participate in any tender opportunity should a procurement process be pursued. Thus, in the absence of the council providing the service, Dignity thus remain as the only main supplier of the proposed bereavement service detailed in this report.
- 5.2 As set out in this report, the council is under no legal obligation to provide burial provision although it may elect in a discretionary capacity to deliver and manage these services.
- 5.3 Under Section 120 of the Local Government Act 1972, the council has power to acquire land by agreement, for the purposes of any of its functions or the benefit, improvement or development of their area, and acquired the land at North Waltham in accordance with these powers and for cemetery purposes. Such powers would include the acceptance of a surrender of the existing lease.
- 5.4 In addition, the council has power under Section 123 of the Local Government Act 1972 to dispose of land held by it in any manner it may wish, provided that except with the consent of the Secretary of State, the council may not dispose of such land for consideration less than the best that can reasonably be obtained. Accordingly before entering into a disposal, by way of an agreement for lease and entering into of a lease (following the surrender of the current lease and grant of planning permission) the council must first be satisfied that the overall terms provide for best consideration. In accordance with the terms

negotiated with Dignity as set out at Confidential Appendix 3, 4 and 5, officers consider that the terms agreed together with the anticipated income return, represent the best terms that can be reasonably obtained. This view is supported by the National cemeteries expert.

- 5.5 The prior entering into of an agreement for a lease, will enable Dignity to secure a legal interest in the land and enable them to prepare and submit a planning application, the details of which will require the council's prior approval. Completion of a lease will be conditional upon Dignity obtaining planning permission for the cemetery facility detailed within this report. The current lease will be surrendered at the same time as completion of the new lease. Within the lease, terms will be included to ensure that Dignity comply with all relevant Acts, statutory duties and codes of practice as set out in this report, at their own cost and with appropriate compliance provisions and if required forfeiture provisions, in the event of breach of lease terms. A summary of the current position of the proposed Heads of Terms is set out at Confidential Appendix 5. The precise details of the terms and provisions to be included within the agreement for lease, lease and any other supporting legal documentation required, is to be delegated to the Executive Director of Borough Services and the Executive Director of Finance and Resources, in consultation with the Head of Law and Governance.
- 5.6 The requirement to undertake an agreed number of public health funerals at Dignity's cost, to provide a standard burial fee at the council's current rate with an agreed mechanism for future fees, land upkeep/management, branding and provision for multi-faiths/groups, will also be included within the lease and accompanying management or supplementary agreements and subject to the same enforcement provisions and if required, forfeiture provisions in the event of non-compliance.

6 Financial Implications

- 6.1 When the current cemetery at Worting Road reaches full capacity in 2020, there will continue to be an ongoing requirement for reopening and burials in pre-purchased graves, as well as maintenance. With most expenditure expected to continue and income from new burials ceasing, it is estimated that from 2020/21 there will be an ongoing increase in net running costs of approximately £140,000. This additional cost pressure has not previously been identified and will need to be added to existing medium term financial strategy (MTFS).
- 6.2 The financial implications of the three different options explained in Part 4 of this report are set out in Confidential Appendix 3 due to the commercial sensitivity of the information until any contracts are entered into. The financial implications of whichever option is pursued will also need to be made in the MTFS.

7 Risk Management

- 7.1 A risk assessment has been completed in accordance with the council's risk management process and has identified the following significant (Red or Amber) residual risks that cannot be fully minimised by existing or planned controls or additional procedures. The main risks at this stage are as follows:

7.2 In the event that the council proceeds with Option 3 and which requires Dignity to submit a detailed planning application, there is a risk that planning permission may not be granted. In that event, the council could require Dignity to submit a further application or seek termination of the agreement for lease; the council could then consider submitting its own application. However, given that outline planning permission has already been obtained, and that officers and Dignity will work closely with guidance from the planning authority, it is hoped that the risk of refusal will be minimised.

8 Equalities

8.1 The impact of the proposed cemetery facility at North Waltham (potentially to be operated by Dignity) on the protected characteristics and other vulnerable groups, and the impact of the Public Sector Equality Duty (Equality Act 2010) were considered in an Equality Impact Assessment. This assessment concluded that the proposed cemetery would have a neutral impact on most groups. However, potential negative impacts were identified for those persons using or accessing public transport or those living in rural areas.

8.2 Stakeholders concerns at the time of the 2015 land purchase indicated a necessary consideration for a public transport options review to cater for site visitors not attending funerals. The revenue budget currently includes £15,000 for future travel provision relating to the North Waltham cemetery site.

8.3 There are three options which will be considered for visitor public transport:

- Community bus
- Taxi/car share scheme
- Public bus (through flexing an existing route)

8.4 Early discussions with the council's Transport Officer indicate that a 12 month pilot scheme for a community bus be implemented as a test for demand and service frequency; with suitable monitoring and review.

8.5 It is currently proposed that a travel scheme could be operational by April 2020 and would be worked up on the basis of a central pick up point and an unsubsidised service with the exception of normal concessions. It should be noted that with the planned expansion of the town, new bus services are also likely and these should be taken into consideration when evaluating the pilot.

8.6 It was acknowledged that the provision of a new cemetery could support those residents who wished to be buried in the Borough in the future, and if a proposal is agreed with Dignity, it is intended that residents would have access to a standard burial fee and provision of public health funerals. The proposal would also provide for bereavement services in accordance with peoples religious beliefs and practices.

9 Communication and Consultation

9.1 Consultation with the Community, Environment and Partnerships Committee

9.1.1 The three options for future cemetery provision were reported to the Community, Environment and Partnerships Committee on 14 November 2018.

The Committee endorsed Option 3, for the Council to enter into an agreement for a lease with Dignity and then to enter into a lease (concurrently with the surrender of the current lease) on obtaining of planning permission for the provision of a cemetery at the North Waltham site.

- 9.1.2 During the discussion, Officer's confirmed that the local monumental masons/funeral directors, had raised no concerns in relation to Dignity running the new cemetery, provided the council retains control over the setting of fees for a basic funeral. See also 9.2 below.
- 9.1.3 It was also confirmed that there was ongoing budget provision of £15,000 to provide a public transport service and that members would be consulted prior to provision being made. Transport would then be reviewed on a regular basis.

9.2 Consultation with local funeral directors and monumental masons

- 9.2.1 Twenty one local funeral directors and monumental masons were invited to a consultation event on 24 September 2018 to gain their views on the potential options for the delivery of the new cemetery site. In addition to council Officers, 7 people attended this meeting, from 4 of the invited businesses (2 Funeral Directors and 2 Monumental Masons).
- 9.2.2 There was an appreciation that the council needed to ensure value for money and were in general agreement with the principle of the council pursuing the option for Dignity to deliver this service. Comments were made concerning the importance of retaining control over the setting of the fees in relation to burials and the fees charged to monumental masons to ensure residents and local businesses are not disadvantaged. These areas are reflected in the negotiations with Dignity and will be translated as controls within the lease. Should option 3 be approved Dignity have offered to meet with Local providers on site to discuss and address any operational issues and we would suggest that this be a joint session with officers prior to the submission of any planning application.

10 HR Implications

- 10.1 There are no HR implications associated with this report.

CONCLUSION

11 Summary and reasons for the decision

- 11.1 The council has elected to continue the provision of a cemetery service for borough residents. Officers have therefore explored the opportunities presented by working with the private sector, to deliver the site at North Waltham for cemetery provision as set out in this report.
- 11.2 The delivery of a new cemetery site by Dignity will cater appropriately for all recognised faiths and groups, follows the standard burial fees set by the council, ensures branding to link the service to Basingstoke and Deane Borough Council and would not disadvantage local monumental masons and funeral directors. Dignity would meet current and future environmental liabilities

as determined by the Environment Agency and take on responsibility for the ongoing maintenance of the new cemetery site also at their cost. This will also release capital back into the capital programme which can be used to support other key priorities and avoids the requirement to directly develop the new site. Further benefits of this arrangement are listed in Part 2 of this report.

11.3 The proposed arrangements with Dignity also represent for the council, an opportunity for the council to generate income whilst minimising future costs and liabilities.

12 The options considered and rejected

- To withdraw from the delivery of a non-statutory service and offer the North Waltham land for sale.
- Directly develop and manage a cemetery service at the North Waltham site.

Date: 15 January 2019
Decision taken by: Cabinet

| | |
|------------------------|--|
| Lead officers | Executive Director of Finance and Resources Executive Director of Borough Services |
| Report authors | <p>Tom Payne, Head of Environmental Services Telephone 01256 845545 Tom.payne@basingstoke.gov.uk</p> <p>Linda Searle, Specialist Services Manager Telephone 01256 845247 Linda.searle@basingstoke.gov.uk</p> <p>Jason Christou, Senior Surveyor (Housing, Regeneration and Infrastructure) Telephone: 01256 845295 Jason.christou@basingstoke.gov.uk</p> |
| Version | For Cabinet |
| Dated | 15 January 2019 |
| Status | Open |
| Confidentiality | It is considered that information contained within Appendix 3,4, 5, 6a & 6b contains exempt information under the meaning of Schedule 12A of the Local Government Act 1972, as amended, and therefore cannot be made public. |