

Decision maker:	Cabinet member transport and regulatory services
Decision date:	Friday, 9 February 2018
Title of report:	Extension to Leominster Cemetery
Report by:	Bereavement and markets services manager

Classification

Open

Decision type

Non-key

Wards affected

Leominster East; Leominster North & Rural; Leominster South; Leominster West;

Purpose and summary

To approve an extension at Leominster cemetery to allow continued burial provision for the town for a further 90 years.

Recommendation(s)

That:

- (a) the proposed extension to Leominster cemetery as shown in appendix 1 is agreed; and**
- (b) Authorisation is delegated to the Assistant Director – Environment and Place to take all operational decisions necessary to implement the scheme including award of contract within budget of £193k allocated within the 2018/19 capital programme.**

Alternative options

- 1 Do not extend the cemetery provision in Leominster town – This is not recommended as the existing cemetery only has burial space for a further two years based on current and expected demand.

Key considerations

1. The land on which the extension is proposed is owned by the council and within the existing site boundary of the cemetery.
2. Councils are not under a statutory duty to provide cemeteries. However, under Local Authorities Cemeteries Order 1977 (LACO 1977) the council is required to maintain any existing cemetery in good order.
3. In addition to any general council funding, LACO 1977 enables councils to make charges for cemetery services and thus generate income that can fund operations and maintenance. The main income is derived from the sale of exclusive rights of burial, with interment fees designed to cover the costs of carrying out a burial. Additional fees may include charges relating to the right to place and maintain a memorial in a cemetery.
4. National statistics indicate that deaths are projected to rise significantly (30%) over the next 20 years and this is likely to lead to a consequential rise in demand for burial which will have an impact upon cemetery capacity.
5. This extension will ensure that people are able to continue to use a local cemetery within their area as opposed to using a facility further afield or a parish churchyard.
6. Approval from the Environment Agency has been obtained to extend as well as planning approval from the Council.
7. This extension is within the curtilage of the Leominster cemetery and as such would be operated under existing rules and regulations
8. The contractor will be briefed on the sensitive nature of the site, but it is not anticipated that there will be any disruption to the normal operation of the cemetery. Dates and times of all burial appointments will be communicated with the contractor and works would cease for the duration of the service.
9. Property Services will develop the scheme, tender the works and oversee them in an appropriate manner in accordance with the governance in place and the prevailing procurement rules.

Community impact

10. As people generally arrange funerals local to where the person lived, whether it is a burial or cremation, the proposed extension will ensure burials continue in the town. By ensuring access to this local service, the proposal would support achievement of the priority to secure better services, quality of life and value for money.

Equality duty

11. Maintain local amenity for the town, minimising travel time for bereaved families.

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
12. The Equality Act 2010 established a positive obligation on local authorities to promote equality and to reduce discrimination in relation to any of the nine 'protected characteristics' (age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation). In particular, the council must have 'due regard' to the public sector equality duty when taking any decisions on service changes.
 - (a) This extension will ensure the Council is able to provide a burial services in line with the individual's wishes
 - (b) The extension will not be consecrated therefore enabling the burial of all religions or beliefs

Resource implications

13. Property Service has provided a cost estimate for the proposed works of £193k. This includes a 10% contingency and matches the amount requested in the 2018/19 capital programme. The costings have been agreed by Finance.

Each year cemetery fees are increased in line with Council policy and the income generated from burials and associated memorials in 2016/17 were £48k.

Legal implications

14. Local authorities are defined as burial authorities in law and are given the power (but not a duty) to provide cemeteries under the Local Government Act 1972. The terms under which any Council cemeteries must be operated are set out in the Local Authorities Cemeteries Order 1977, as noted above in this report. Under the Order the Council has an obligation to keep a cemetery in good repair and to keep good records of burial locations, but otherwise the Council has a reasonably wide discretion as to how the cemetery is operated and laid out.
15. There is no express legal obligation on the Council to ensure a local cemetery meets the capacity needs of its community but any Council cemetery must be operated in compliance with the Equality Act 2010 and the Council's specific legal duties to promote equality of

access and non-discrimination for all customers with protected characteristics including, for example, disability, race or religion or belief.

Risk management

- (a) Not implementing this recommendation would effectively mean that the cemetery would be closed for new burials and all income relating to this work.
- (b) Under Local Authorities Cemeteries Order 1977 (LACO 1977) the Council is required to maintain any existing cemetery in good order. The proposed extension will generate income which will support this requirement.

Consultees

- (a) Ward member consulted by email. Map of proposed works was requested and sent. No further comments received.

Appendices

Appendix 1 – Map of proposed works
Appendix 2 – Letter from the Environment Agency
Appendix 3 – Decision Notice

Background papers

None identified.