

# *Devizes*

## *& Roundway*

### *Joint Burial Committee*

Town Hall  
St. John's Street  
Devizes  
Wiltshire SN10 1BN

Clerk: Sarah Todhunter  
Tel: 01380 722160  
Fax: 01380 722415

## **MEETING**

Date: Thursday, 12 March 2009  
Time: **7pm**  
Venue: Council Chamber, Town Hall, St John's Street, Devizes  
Enquiries: Town Hall - 01380 722160

### **MEMBERS**

#### **Devizes Town Council:**

The Town Mayor: Councillor Mrs Burton

Councillors: Gudgeon  
Leighton  
Parsons  
Mrs Evans  
A R Taylor  
Nash

#### **Roundway Parish Council:**

Councillors: Booth  
Callow  
Miss von Berg  
Stevens CBE

## **AGENDA**

### **1. MINUTES**

To approve as a correct record and authorise the Chairman to sign the minutes of the meetings held on the 16 October 2009, which have been circulated with the agenda.

### **2. APOLOGIES FOR ABSENCE**

### **3. DISCLOSURE(S) OF INTEREST**

To receive any disclosures by a Councillor(s) and/or Officers in matters to be considered at this meeting in accordance with the provisions of Sections 94 or 117 of the Local Government Act 1972 or the National Code of Local Government Conduct.

**4. PUBLIC PARTICIPATION**

At the Chairman's discretion, members of the public attending the meeting will be allowed to ask questions, make a statement or address the Committee upon a matter of concern, which is relevant to the Committee. A time limit of 5 minutes per person will be permitted, but this may be extended at the Chairman's discretion and a maximum period of 20 minutes has been allocated by the Committee for this item of business.

**5. FINANCIAL MATTERS**

Schedule of Payments: Since the last meeting accounts to £25,602.76 (net) have been paid (doc 5/1).

**6. REPORT FOR INFORMATION – CEMETERY CHAPEL**

Work has been commissioned to paint the cemetery chapel: including plaster and skirting repairs, sealing and painting all walls. Four quotes were obtained from local firms and the most competitive was selected subject to suitable references being obtained. The work will take about 6 days (to allow for the walls to dry out between coats). Heating has been installed in the chapel. Local Funeral Directors have been informed of the work going on.

**7. REPORT FOR DECISION – COMPLAINT REGARDING CEMETERY PATHWAYS**

**Recommendation**

That the committee consider the representations made by Mr K Price in respect of the pathways in the Cemetery and the provision for disabled access.

**Purpose of the Report**

To consider, once again, the representations made by local resident Mr Price in respect of access for the disabled in Devizes Cemetery.

**Background**

Mr Price initially made a verbal complaint to the Direct Services Manager Mrs Berry. Mrs Berry attended a site visit to the Cemetery with Mr Price and wrote to him on 25 September 2008 advising that the Joint Burial Committee would consider the matter on 16 October 2008.

Mr Price also met a number of councillors on-site.

The matter was considered by the Joint Burial Committee on 16 October 2008 and Mr Fisher, the Deputy Town Clerk, wrote to Mr Price on 7 November 2008 advising that the Committee was satisfied that it was meeting its obligations under the Disability Discrimination Act 1995.

The Committee was satisfied that by allowing disabled persons to access the Cemetery by vehicle it had made reasonable adjustments, as required under the act, having regard to a number of factors including the nature of the facility.

Some confusion arose with a subsequent letter received 14 January 2009, which was accompanied by a letter from Mr Came, Chairman of the Devizes and District Association for the Disabled. Mr Fisher responded to Mr Came, copying his response to Mr Price taking the letter to be simply a repeat of the earlier verbal complaint, which had already been responded to. It would appear that Mr Price at this point was requesting that the matter be raised again at this committee, which is the purpose of this report.

Mr Price is requesting that the grass pathways are removed of grass to allow mobility impaired people to access certain parts of the Cemetery by use of wheel chair or using walking aids.

It is officers' belief that the tarmac below the grass on the pathways that Mr Price has identified has disintegrated and allowing grass to form has allowed the roots to 'knit' together the surface, allowing vehicles to access. Removal of the grass would, therefore, likely result in an unsustainable surface that would require the pathways to be renewed at very significant cost.

The Joint Burial Committee supported this position at its meeting on 16 October 2008 and as a service provider believed that it satisfies its responsibilities under the Disability Discrimination Act 1995 by providing a reasonable alternative method of accessing the Cemetery – in this case allowing vehicular access rather than anticipating access by wheel chair or by walking aid.

In order to establish the position a small section of the pathway has had the grass removed and another small area the grass was killed with weed killer to establish exactly what the position is.

Members of the committee will have an opportunity at a site visit arranged for 4.30pm on Thursday 12 March (the afternoon of the JBC meeting) to see whether or not the tarmac is sound beneath the grass.

Mr Price has also raised concerns with regard to the pathway that runs to the southern edge of the old Cemetery. He asserts that it was not possible to access this pathway because it was impossible to establish the route and, therefore, gives concerns to the potential for driving off the pathway and onto vulnerable graves, which could give way. This matter is currently under investigation as to how paths can be better marked and, once again, members will have the opportunity to see for themselves the position and any possible solutions.

### **Options Considered**

To remove or kill the grass covering several main pathways in the old Cemetery on the basis that the surface beneath is fit for purpose and will satisfy the Joint Burial Committee's obligations under the Disability Discrimination Act.

To agree that the likely surface beneath the grass has deteriorated and therefore the Joint Burial Committee will satisfy its obligations under the Disability Discrimination Act by making the reasonable adjustment of allowing the mobility impaired to have vehicular access to the Cemetery.

To remove or kill the grass covering several main pathways, agreeing that the surface has probably deteriorated and agree funding in next year's estimates to make good the pathways.

### **Implications & Risks**

#### **Financial and Resource Implications**

The financial implications of reinstating the pathways is likely to be in the region of £25,000.

There will be a staffing resource implication in the removal or killing of the grass, which has not been allowed for in the service level agreement.

#### **Legal Implications and Legislative Powers**

The Joint Burial Committee has obligations under the Disability Discrimination Act to ensure that there are reasonable adjustments to all disabled people to access services having regard to the nature of the facility or service.

The authority of Devizes Town Council and Roundway Parish Council as Burial Authorities is discharged through the Joint Burial Committee.

#### **Environmental Implications**

There are environmental implications in the use of weed killers.

#### **Risk Assessment**

If the Joint Burial Committee fails to satisfy its obligations under the Disability Discrimination Act it could find itself legally challenged. The Committee needs to decide whether the action it has taken to allow vehicular access to the areas in question represents suitable adjustments given the nature of the facility.

#### **Crime and Disorder**

Officers are not aware of any issues the Council should consider under Section 17 of the Crime and Disorder act 1998.

**8. REPORT FOR INFORMATION – MANAGING THE SAFETY OF BURIAL GROUND MEMORIALS**

In January of this year the Ministry of Justice published practical advice for dealing with unstable memorials. The report was commissioned to consider the issues of memorial safety following concerns of adverse public distress and adverse publicity as a result of over zealous risk assessments.

Devizes Town Council has adopted a memorial safety assessment strategy based on guidance it has received by such organisation as ICCM (Institute of Crematoria and Cemetery Management). Its strategy involves the use of a calibrated pressure tester and it would appear that this is now where many of the concerns centre.

The ministry of justice guidance was compiled by many professionals involved with cemetery management including representatives from the SLCC (Society of Local Council Clerks), NALC (National Association of Local Councils), ICCM, Church of England, Health and Safety Executive and the National Association of Memorial Masons. The guidance recognised that significant risks should be properly managed but the risk of injury from a gravestone or other memorial, which become loose and unstable is very low.

The two main differences in the guidance from the process the Town Council currently uses is as following:

- 1. Where a visual check suggests no stability defects, a hand test can help confirm that assessment or identify stability problems – this test involves no tools or equipment and is intended to provide support to the visual checks*

Currently our process involves the use of a calibrated pressure-testing device, which measures if a headstone moves at that load. If it does it automatically fails.

It is recognized that just because a headstone moves, it does not make it unsafe, particularly if it is installed using a ground anchor. However, although officers recognize the methods employed by the town council is probably overzealous, the proposed used of hand testing only and the allowance for some movement will make it difficult to set clear guidance for staff. Therefore are review of our risk assessment is required.

- 2. A memorial may be so unstable there is an imminent risk of it toppling. In a very few cases where this could result in serious injury, immediate steps may be necessary to reduce the risk e.g. restricting access or laying the memorial flat. The routine staking of memorials is not recommended – not only is there a risk of harm in the staking itself, there is also the potential for damage to the memorial.*

Currently our process involves the staking of all unsafe memorials, as officers firmly believe that this is the best way of initially dealing with the problem.

Our experience has shown us that the families are generally far less distressed if their memorial is supported rather than laid down and the method we used is designed to minimise and risk of damage to the gravestone. It is therefore officer's intention not to follow this aspect of the guidance.

Should members of the committee wish to see the report in full a copy is available at the Town Hall.

**9. QUESTION TIME**

Members will be allowed a short period in which to put questions on matters of concern to the Committee, which are not contained in the report of matters formally considered by the Committee at this meeting. The question may be answered at the meeting or may be referred back to the Committee at a later date. The question may not be the subject of any further debate.

DEPUTY CLERK TO THE JOINT BURIAL COMMITTEE