

Stratfield Mortimer Parish Council

Finance and General Purposes Committee 07/12/2021

Exclusive Right of Burial

Agenda item 21/047 6

To receive a report and RESOLVE, that the criteria having been met, to proceed with the ICCM's recommendation to grant the application to install a memorial in the Parish Council Cemetery.

This decision can be taken under the Local Authorities Cemeteries Order, 1977

BACKGROUND

An **Exclusive Right of Burial** (ERB) is granted, and a legal certificate issued, on receipt of a fee to an identified individual at the time of requesting an interment into a plot within the Parish Council cemetery. This individual is usually a next of kin of the deceased and then owns the right to what happens to the plot over the next 50 years.

The Parish Council's ERB grants the plot owner the right of burial into the plot specified and **the right to have a memorial erected on the plot**, i.e. they would normally sign off the request for the installation. This also includes their responsibility for upkeep and costs of any memorial erected on the plot.

Earlier this year, the Parish Council office was approached by a family enquiring how to request the installation of a headstone memorial on a grave where the owner of the Exclusive Right of Burial was granted to another family member who was no longer contactable and estranged from the family.

After seeking advice from the **Institute of Cemetery and Crematorium Management** (ICCM), it was recommended the Parish Council office take the following recommended steps:

1. Seek to make contact with the ERB holder and get their permission for another family member to arrange the installation of the memorial;
2. If the ERB owner is untraceable, then the Local Authorities Cemeteries Order states:

Grant of burial rights and rights to erect memorials, and agreements for maintenance of graves and memorials

10.-(1) A burial authority may grant, on such terms and subject to such conditions as they think proper-

(a) to any person-

(i) the exclusive right of burial in any grave space or grave, or the right to construct a walled grave or vault together with the exclusive right of burial therein; or

(ii) the right to one or more burials in any grave space or grave which is not subject to any exclusive right of burial;

(b) to the owner of a right described in (a)(i) or (ii) (or to any person who satisfies them that he is a relative of a person buried in the grave or vault, or is acting at the request of such a relative and that it is impractical for him, or such relative, to trace the owner of the right so described), the right to place and maintain, or to put any additional inscription on, a tombstone or other memorial on the grave space, grave or vault in respect of which the right so described subsists;

This does not give them ownership rights, but would just allow for works to the memorial.

The Parish Council office has written to the ERB holder but has not received any response and has no other way to trace the holder.

RECOMMENDATION

To approve the recommendation from the ICCM in this instance and now ask the family party requesting to install a memorial, to supply proof of identity and provide a **statutory declaration** stating that the ERB owner is untraceable, and should the owner come forward in the future and object to the memorial, they will remove it at their cost.

On receipt of proof that satisfies the Parish Council that article 10(1)(b) of the Local Authorities Cemeteries Order, 1977 has been met, and a certified statutory declaration has been provided, the Parish Council will be able to grant an application to install a memorial on the assigned plot at the family's cost.