

**OVERVIEW AND SCRUTINY COMMITTEE
20 SEPTEMBER 2016**

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

16

TITLE OF REPORT: PROPOSED CREMATORIUM AT WILBURY HILLS CEMETERY – INTERIM REPORT ON BUSINESS CASE

REPORT OF THE HEAD OF LEISURE AND ENVIRONMENTAL SERVICES

EXECUTIVE MEMBERS: COUNCILLORS PETER BURT AND T.W. HONE

1. SUMMARY

- 1.1 Wilbury Hills Cemetery was opened in 2008 in its current form with the intention of meeting the future needs for burials and remembrance for the residents of North Hertfordshire as a District Wide facility for many years to come.
- 1.2 As part of the District Council's work to progress continuous improvement, meet the strategic vision for the authority and to manage its financial resources the potential of developing a Crematorium has been investigated.
- 1.3 Since Cabinet on the 23rd September 2014 a private sector company has submitted and gained planning approval for a crematorium at Holwell in North Herts. While the business model for this company is not known in detail it is likely to have an impact upon the commercial viability of any future development of a Crematorium at Wilbury Hills.
- 1.4 Officers have subsequently met with three separate potential private sector partners during August 2016 on site at Wilbury Hills. All three organisations have expressed interest for a project to develop a Crematorium at Wilbury Hills. All confirmed that the development of the Crematorium at Holwell would have an impact upon their business models but they considered that local demand is sufficient to support two facilities. Additionally the Wilbury Hills site is already an established cemetery and provides a more appropriate venue for remembrance than the site at Holwell.
- 1.5 Cabinet of the 23rd September 2014 identified concerns regarding the creation of a trading vehicle to deliver the then proposed scheme. The results of the discussions as highlighted in 1.4 now lead Officers to the belief that the market place would be able to deliver the proposal of developing a crematorium. The proposals we have heard would negate the need to develop a trading company while generating a degree of income and providing additional community benefits.

2. RECOMMENDATIONS

- 2.1 That following consideration of the Part 2 report, Cabinet authorises Officers to consider options for collaboration with a private sector provider that could deliver a suitable crematorium, secure the future of Wilbury Hills as a site for burial and cremation and achieves best value in respect of the use of Council land.
- 2.2 That Officers develop and conclude a selection process for the delivery of the project in collaboration with a private sector partner. The aim of this process will be to receive and evaluate proposals from potential partners with a view to establishing which operator offers the Council the most beneficial model for collaboration.
- 2.3 That Officers report further to Cabinet once the selection process has concluded in order to obtain Cabinet's approval to enter into collaboration with the selected partner and complete the necessary legal documents.

3. REASONS FOR RECOMMENDATIONS

- 3.1 As a site already dedicated to the burial and remembrance of the deceased Wilbury Hills has significant potential to be developed further to provide a full profile of options for burial or cremation. This has already been identified as a community need with several sections of the community making enquiries with regards the development of a Crematorium at Wilbury Hills.
- 3.2 Work already completed to date, leads Officers to belief that the development of a Crematorium was viable for North Herts District Council (NHDC) which is further supported following the site meetings during August 2016 with three separate private sector organisations.
- 3.3 Cremation is more popular choice than burial and trends suggest that cremation will continue to be more popular than burial in the future. It is therefore strategically important for Wilbury Hills to be able to offer cremation services in order to continue as a viable facility in the future.
- 3.4 Various options have been suggested by the organisations we met on site and these are further explored in the Part 2 report.
- 3.5 Collaboration with a private sector partner will allow the Council to benefit from a partner's expertise and experience which should, in turn, help ensure the crematorium is designed, situated and managed appropriately.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 There are no alternative options for the location of a new Crematorium within the land ownership of North Herts.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 There has been consultation with the market place during August 2016 that constitutes the basis of the recommendations within this report.

6. FORWARD PLAN

6.1 This item was first identified on the forward plan in April 2013.

7. BACKGROUND

7.1 Cabinet considered a report on the possible establishment of a Crematorium at Wilbury Hills Cemetery on 18th June 2013 (minute 15 refers) and, in doing so, resolved:

'That officer's be authorised to undertake the development of a Business Case to follow on from the completed feasibility study and report its conclusions to a future meeting of the Cabinet.'

7.2 Overview & Scrutiny Committee also considered the report following this at its meeting on 27th July 2013 (minute 26 refers) and in doing so resolved:

(1) That the decision made by Cabinet on 18 June 2013 "That officers be authorised to undertake the development of a Business Case to follow on from the completed feasibility study and report its conclusions to a future meeting of Cabinet" be endorsed;

7.3 Cabinet subsequently considered a report regarding the development of a Crematorium at Wilbury Hills and the issue of how it would be delivered on the 23rd September 2014 (minute 52 refers) and in doing so resolved:

That it be noted that the conclusion of the Crematorium Business Case may require the creation of a Local Authority owned or joint venture company, and that Officers be requested to fully research the implications as a component part of the Business Case to be presented to a future meeting of Cabinet.

7.4 The commencement of the development of a Crematorium at Holwell has resulted in Officers reviewing the existing Business Case to ascertain if a facility at Wilbury Hills is still viable. Additionally consultation with the market place also confirms that such a proposal would provide significant benefits to the community whilst ensuring that the Council achieves best value for the use of its land.

8. PROPOSED MODEL FOR COLLABORATION AND SELECTION PROCESS

8.1 Proposed model for collaboration and selection process is set out in the part 2 report.

9. CONCLUSION

9.1 Research suggests that significant latent and still growing demand for Crematorium capacity in North Hertfordshire is strong. The most appropriate options available should the Council wish to exploit a Crematorium for commercial as well as 'service' purposes, is:

- To provide the service via a joint venture with a commercial partner:

9.2 That the Joint venture should be structured as a land disposal for the reasons stated in section 8.

10. LEGAL IMPLICATIONS

- 10.1 Within Cabinet's terms of reference are "*to prepare and agree to implement policies and strategies other than those reserved to Council*" and "*to approve those major service developments or reductions which also constitute Key Decisions.*" This project has been noted on the Council's forward plan as a key decision.
- 10.2 As a burial authority under section 214 Local Government Act 1972 the District Council has a statutory duty to provide facilities for the burial of the dead on behalf of the community it serves. However there is no stipulation as to how this duty has to be delivered unless no arrangements have been made for the disposal of a deceased person. In these circumstances, the council has a statutory duty to undertake disposal of deceased person, either by cremation or burial.
- 10.3 Section 4 of the Cremation Act 1902 confirms that the powers of the Council, as burial authority, to provide and maintain burial grounds or cemeteries also include the provision and maintenance of crematoria. A crematorium must also not be less than 200 yards from any dwelling house.
- 10.4 With respect to generating income, section 9 of the Cremation Act 1902 confirms that the Council may demand payment of charges or fees for providing a cremation service and such charges or fees, and any other expenses properly incurred in or in connection with the cremation, shall be part of the funeral expenses of the deceased.
- 10.5 The Council is required to keep a table of fees for cremation services and must make this table available for public inspection.
- 10.6 The Council has a legal obligation to secure best value in respect of any land disposal and this can be demonstrated by formal valuation or competition between potential operators.
- 10.7 The Council must secure best value in relation to any land disposal which form part of any long term collaboration in order to comply with rules on state aid. A level of rent which is below market value may be deemed an unlawful state subsidy.
- 10.8 The Council must comply with Part I (Land Transactions) of the Council's Contract Procurement Rules.
- 10.9 Planning permission will be required and officers have received pre application advice from Central Bedfordshire which was favourable to a proposal to develop a crematorium at Wilbury Hills.

11. FINANCIAL IMPLICATIONS

- 11.1 The evolving Business Case and associated investigations lead Officers to the belief that the development of a Crematorium at Wilbury Hills is still financially viable.
- 11.2 Any initial capital investment and preliminary expenditure must comply with the Council's Contract Procurement Rules and Financial Regulations and be considered as part of the Corporate Business Planning process for 2017/18.

12. RISK IMPLICATIONS

- 12.1 This paragraph 12.1 is set out in the Part 2 report
- 12.2 As with all projects, there is a risk to the final cost of delivery, target completion date and the quality of the Crematorium should this be agreed. However the final cost of delivery will be limited in the event that the Council decides to proceed on the basis of the partner financing the project entirely. Even with the Council providing capital funding, the partner will have an interest in ensuring that the building is delivered to target date and quality, and is therefore likely to contribute their expertise to ensuring that this is achieved.
- 12.3 Additionally with this project there is a risk in not achieving the projected turnover rent. However the partner will also have a significant interest in achieving this, which makes it more likely to be achieved.

13. EQUALITIES IMPLICATIONS

- 13.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 13.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 13.3 The provision of a Crematorium in North Herts would provide new facilities to the residents of North Herts and beyond that would enable families to cremate their loved ones as their religion or belief dictates. As a major key decision for the council, this will require the completion of an equality analysis which will be carried out as part of the further analysis and report and prior to a decision by Cabinet.

14. SOCIAL VALUE IMPLICATIONS

- 14.1 The proposal to construct a new Crematorium would not constitute a public contract because the arrangement would be land disposal. Therefore the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 will not need to be applied, although equalities implications and opportunities are identified in the relevant section at section 14.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 None that is apparent at this present stage. However depending upon the preferred delivery option consideration for employee's and their required skills might need some future consideration.

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

17.1 Background papers are contained in the Part 2 report.