

Trefriw Cemetery discussion document

Preamble

At January's TCC meeting, our Clerk alerted Council to the probable implementation later in 2022 of new DEFRA regulations likely to affect all cemeteries in England and Wales. The Cemetery Working Group has sought to assess the possible implications of the new regulations, as they will impact on both the existing cemetery and the proposed new extension area.

Background

The new regulations are intended to update "Environmental Permitting Regulations" to improve the way in which groundwater activities, and some related surface water discharge activities, are regulated in order to minimise the risks of pollution.

The proposals include an exemption from the permitting scheme for small cemeteries i.e., those with fewer than 100 burials per year. However, to qualify as an 'exempt facility' a cemetery will have to comply with "General Binding Rules" (GBRs), which do not require an Environment Agency 'permit to operate'. **The following Draft Exemption Conditions** were published, which are intended to enable compliant cemeteries to be exempt from permitting.

The first eight conditions will apply to any burials of human remains, other than a burial of human ashes from crematoria, **within any existing operational cemetery or proposed new cemetery development:**

1. A burial within a cemetery must not cause pollution of surface water or groundwater.
2. A burial within a cemetery must not be within 10 metres of any field drain, including any dry ditch.
3. A grave must have at least 1 metre clearance between the base of the grave and the top of the water table and must not have any standing water in it when dug.
4. A burial must not be undertaken directly into groundwater.
5. A grave must not be dug in unaltered or un-weathered bedrock.
6. A grave must not be dug in an area susceptible to groundwater flooding.
7. A grave must be deep enough so at least 1 metre of soil will cover any part of the coffin or body.
8. A grave plot must not be less than 5sq.mtrs. in area.

These next conditions will also apply to any proposed new cemetery development started on or after the Implementation date:

9. The cemetery must not be located within a groundwater Source Protection Zone 1.
 10. The cemetery must not be located within 250 metres of any well, spring or borehole that is used to supply water for domestic drinking or food production purposes.
 11. The cemetery must not be within 30 metres of any spring or watercourse.
 12. The cemetery must be located either:
 - 12.1 Entirely on strata which is unproductive strata.
- OR

- 12.2 Entirely on strata which is a Secondary B aquifer or entirely on strata which is Secondary undifferentiated rocks, where the number of burials being less than 100 burials per annum.
OR
- 12.3 Entirely on a Secondary A aquifer, where the number of burials being less than 50 burials per annum
OR
- 12.4 Entirely on a Principal Aquifer AND not in a Source Protection Zone 2 where the number of burials being less than 30 burials per annum
OR
- 12.5 On any combination strata mentioned in condition 12.1, 12.2, 12.3 and 12.4, subject to condition 13.
13. Where a cemetery is, pursuant to condition 12.5, partly located on strata mentioned in 12.2, 12.3 or 12.4, the restrictions on numbers of burials per annum in condition 12.2, 12.3 or 12.4 (as the case may be) apply to the area of the cemetery located on that strata. (N.B.-full definition of 'strata' etc. is provided but not included here)
14. The cemetery must not be in, or within 50 metres of, a Special Area of Conservation (SAC), Special Protection Area (SPA), Ramsar site or biological Site of Special Scientific Interest (SSSI), and must not be in an Ancient Woodland.
15. The cemetery must not need ongoing active control measures to be in place to protect the environment.

These Draft Exemption Conditions were put out for a 12-week public consultation period in September 2021 (ended on 21-12-21). The Government's response will be published in March, a Statutory Instrument laid before parliament in September, with full implementation of new regulations in "the Autumn" of this year.

Implications for Trefriw Cemetery

Whilst we still await the Government's response to the public consultation (and there have been serious misgivings expressed about many of the proposed conditions!), the probability is that most if not all of the draft conditions will be rubber-stamped into law in September, which will have a serious impact on both Trefriw's existing cemetery, and our proposed new cemetery extension.

Most serious for the current cemetery are conditions **(7)** relating to the minimum depth of soil above coffins, and **(8)** minimum area required for new graves, with consequences for second burials in old graves, and sufficient available space being available for new and pre-purchased burial plots.

The same concerns apply to the new extension area, particularly with regard to condition **(8)**. In the original calculations for grave plot numbers, it was calculated that the extension would accommodate 279 new graves. Erring slightly on the side of caution, we now calculate space for only 160-165 graves, a reduction of 40%. In addition, prior to commencement of any construction, we will probably have to conduct a geological survey to satisfy condition **(5)**, a detailed hydrological survey to satisfy several conditions pertaining to ground and surface water, and an area survey to map watercourses, springs, and ditches etc. for compliance with other conditions.

These are the most immediately apparent issues we have identified - there will probably be others that come to light on further consideration!

Issues for consideration

The implications of the new regulations will only become fully apparent when the Government's response is published in March, however, there are financial issues for Council to consider, as well as practical and community engagement considerations.

Council should be aware that there is no statutory duty or obligation upon it to continue to provide community burial facilities and were the development of the new extension not to proceed, owing either to a failure to meet the requirements of the new exemption conditions, or based on purely financial considerations, burials would cease as soon as there was no further available space for graves in the existing cemetery.

If, however, Council's final decision is to seek to proceed with the development of the new extension, there will be an inevitable delay in the commencement of work. Fees for some or all of the survey's mentioned above will need to be budgeted for, our two current contractors asked to update their quotes, and a minimum third quote obtained (it's unlikely the existing quotes will remain unchanged or be reduced!) The financial viability of proceeding further will then need to be assessed, also taking long term maintenance costs etc. into consideration.

Were the final decision to be NOT to proceed with the current plans, we are left with having to decide what to do with the extension area, which we own and for which we will continue to repay the loan for its initial purchase. The land has no realistic commercial value - lacking independent access. It is of agricultural use only to the owners of the land around it, and they are highly unlikely to be prepared to BUY it back....!

One option that Council might wish to consider could be the creation of some form of "contemplative space" for people. What form this might take would require wider community consultation and consensus, but might, for example, include an accessible 'memorial garden' of some sort (a wildflower meadow maybe?), offering the opportunity to place memorial plaques and/or somewhere to bury/scatter ashes, for which the regulations are very different and quite straightforward.

The possibility of apportioning only part of the extension area for burial plots has also been mooted. We would then, however, still be faced with the full costs of compliance with the new exemption conditions, as well as probably still having to provide vehicular access to the extension area at considerable cost. Other options are likely to need only pedestrian and wheelchair access at much lower cost. Any proposed changes to our existing planning consent will, of course, require the approval of SNP Planning Authority, but should be relatively straightforward.

A further important financial issue for consideration is the question of any remaining pre-purchased burial plots in the old cemetery, including second burials in existing graves. Given the likely implementation of the proposed new minimum grave plot size and requirement to maintain a minimum depth of soil above any coffin, it may be necessary to somehow compensate families owing to our inability to provide adequate space for future burials.