

MINUTES OF ORAL EVIDENCE

taken before the

OPPOSED BILL COMMITTEE

on the

BISHOP'S STORTFORD CEMETERY BILL

Thursday 6 July 2023 (Morning)

In Committee Room 2

PRESENT:

Lord Etherton (Chair)

Lord Reay

Viscount Stansgate

Baroness Thornhill

Baroness Willis of Summertown

IN ATTENDANCE:

Mustafa Latif-Aramesh, Agent for the Bill

Che Diamond, Assistant Counsel to the Chairman of Committees

Chris Salmon Percival, Clerk of Private Bills in the House of Lords

WITNESSES:

Victoria Wilders, East Hertfordshire District Council

James Parker, Bishop's Stortford Town Council

Peter Careless, Petitioner

IN PUBLIC SESSION

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(At 10.35 a.m.)

1. THE CHAIR: Good morning, everybody. This is an Opposed Bill Committee for the Bishop's Stortford Cemetery Bill, a private Bill promoted by the East Hertfordshire District Council. We are in public session now so we are being televised and there will be transcripts as well. I ought to start off by saying a little bit about fire. If the fire alarm system rings there will be a two-tone siren, followed by a series of taped messages broadcast. If evacuation is necessary we will follow the instructions of our clerk. Anyone at that moment who is not in the committee room itself at that moment should find the nearest security officer.

2. There are proceedings in the House of Lords today. At the moment our information is that there will be no votes, but just in case the Division Bell does ring for any reason, somebody is dividing the House for a vote, there will be a loud ringing bell. It won't be the same as the siren; it will be quite different. We will rise for 10 minutes if any of the members of the Committee wish to go to the Chamber in order to vote. At the moment our best information is that is unlikely to take place today. If any of you have mobile telephones, could you please turn them off at this point?

3. For the purpose of the transcript I am going to ask members to declare any relevant interests that we have, or whether they have no relevant interests. I will start with myself. My husband is a chairman of a synagogue. As such, he is on a board of trustees that owns three cemeteries. As I understand it, there is no current intention to carry out any work of the kind that we are considering today in relation to those three cemeteries.

4. LORD REAY: I have no relevant interests.

5. BARONESS WILLIS OF SUMMERTOWN: I am principal of St Edmund Hall in Oxford. That is my second role. We are the only college to have our own cemetery, which has been deconsecrated, but many of the issues that we are discussing are relevant.

6. VISCOUNT STANSGATE: I have no interest, financial or otherwise, in relation to this Bill.

7. BARONESS THORNHILL: Likewise, I have no relevant interest to declare.
8. THE CHAIR: So far as sitting times are concerned, subject to any representations anybody wants to make, we will sit from 10.30 until 1.00. There will then be a break of an hour for lunch and then we will carry on from 1.00 until probably 4.15 or 4.30 or thereabouts, depending on how well we are getting on.
9. If for any reason somebody who is speaking or wishes to speak, or a witness, has urgent grounds for asking for a short adjournment that can be granted. We are quite flexible about that. We want to make sure that everybody is comfortable, and everybody has an opportunity to put their case fully. I think we can now go straight into the evidence. I understand that the promoter's agent is Mr Latif-Aramesh.
10. MR LATIF-ARAMESH: Correct. Good morning.
11. THE CHAIR: Good morning. I am going to invite you to make the opening statement on the purpose of the Bill. Before we start I should say one other thing about the format of the proceedings. To start with, we will hear arguments on principle: should the Bill proceed at all or not? We will come to a conclusion at the end of the evidence and argument on that. We will go into a private session, and we will decide whether it should proceed or not proceed. Only if it should proceed will we then go into the question of the amendments. Has anybody got any questions about procedure or any of the other matters I have mentioned? No, very good. Mr Latif-Aramesh, would you like to start with your opening statement.

Opening Statement by Mr Latif-Aramesh

12. MR LATIF-ARAMESH: Thank you and good morning, my Lords and Ladies. By way of introduction, I am Mustafa Latif-Aramesh, a parliamentary agent and partner at BDB Pitmans, the firm instructed by East Hertfordshire District Council to promote this Bill. I am joined today by Mrs Victoria Wilders, the legal services manager and the deputy monitoring officer from the district council, who will be formally proving the preamble, should you allow us to proceed.
13. To my right is Mr James Parker, who is the former chief executive of Bishop's Stortford Town Council and now a consultant for the town council. Given the importance of this Bill, I should note that the head of legal from East Hertfordshire

District Council, Mr James Ellis, and Mr Hugh James, the chief executive of the town council, are here in an observing capacity, but they will not speak. They are at the back of the room behind me.

14. In these opening remarks I want to cover a few preliminary matters relating to the status and background of the promoters, the need for the Bill and why the existing situation is not sustainable, and finally, the consultation carried out and the alternatives considered. By way of preliminary matters, can I check that you have our bundle in front of you?

15. THE CHAIR: Yes. We have all been given copies of the Bill, the explanatory statement and everything else that is in your bundle. We also have the statement by Mr Careless, the petitioner, and we have read them all.

16. MR LATIF-ARAMESH: Thank you very much. By way of the preliminary matters I mentioned, the first is to deal in brief with the background and status of the promoter. The Bill is being promoted by East Hertfordshire District Council. It relates to the two cemeteries in Bishop's Stortford, the old cemetery, which opened in the 1850s, and the new cemetery, which opened in the 1940s. The cemeteries are located in Bishop's Stortford and are the only local authority cemeteries in the civil parish. The town council owns, maintains and operates those cemeteries. For clarity, the cemeteries are referred to collectively in the Bill as 'the cemetery'.

17. The Bill proposes to confer powers on the town council as the burial authority for the cemetery. These powers would enable it to reclaim and reuse graves at the cemetery that would otherwise not be reusable, to ensure that the council can continue to provide a supply of grave space to the local community. Therefore, while the district council is not the burial authority, it is the district authority for the area. It has resolved to promote this Bill because of the lack of certainty as to the capacity for burial space in the local area.

18. The final preliminary matter I want to make clear is that this Bill is being promoted for the benefit of local inhabitants. The burial authority has owned and operated the cemetery for that purpose since the creation of the town council itself in the 1970s. Prior to that it was owned by Bishop's Stortford Urban District Council. The town council, as a parish council and as a burial authority, makes no commercial gain

from the powers in the Bill, should it be enacted. The district council is asking for the town council, as the burial authority, to be put in no less an advantageous position as compared with local authority-administered cemeteries in London, and other private cemeteries in the local area.

19. Why is the Bill needed? Here is where we get to the nub of the issue that we are asking you to consider. Why does the town council simply not sell the remaining spaces and allow the final burials to take place, leaving the cemetery to change slowly from a place of commemoration to a place of recreation?

20. In short, the promoters do not consider that would be appropriate. The cemetery holds significant value to the local community by providing a local place of burial and a place where relatives and other close members of the local community who are close to the deceased can visit, to honour and pay their respects. The district and town councils want to protect and preserve that. The proposed powers represent the best way to preserve the cemetery's special character, prevent its decline, and above all continue to provide the service that the townspeople expect.

21. At the current rate of purchase, the supply of grave space at the cemetery is expected to run out well within a generation. Burial spaces, and cemeteries more generally, provide a public good in allowing people to remember and pay tribute to their loved ones. We take that very seriously, but we must acknowledge that there is a balance between, on the one hand, the need for burial capacity for local residents in a location which is fit for both the deceased and their relatives, and on the other, the wishes of those who have relatives buried in the cemetery. In effect, we are trying to balance those who are currently interred in the cemetery with those who wish to be.

22. In the view of the promoters, that balance between the two relevant interests can be struck, because the vast majority of the older graves are no longer tended nor visited. However, even acknowledging that, under the Local Authorities' Cemeteries Order 1977, there is a requirement to ensure that there is a sufficient part of the cemetery that remains unconsecrated and set apart for the use of particular denominations or religious bodies. The virgin land remaining is the only unconsecrated area usable, meaning that it may not be possible to ensure the balance across the cemetery as a whole.

23. By seeking and obtaining the powers, with your permission and agreement, the

burial authority will be able to plan effectively for the use of the virgin, and reuse consecrated and unconsecrated, resources, and thus ensure it is able to continue to discharge its responsibilities.

24. Approximately 40,000 people currently live in Bishop's Stortford. That is expected to grow up to 50,000 by 2030. Therefore there is an acute concern that the current availability of grave space will not be sufficient or sustainable for the town, meaning it will be impossible to provide burial space for the local population.

25. While the principal concern of the Bill is to ensure that the town council can continue to offer burial space to the residents in the local area, a service that they rightly expect, it is worth mentioning that without the Bill, the cemetery's income from burials, which is used to own and operate – again, not for commercial gain – would reduce and eventually cease. Inevitably this would reduce the income from burial fees and the town council would be less able to meet the continued expenses associated with the operational management and maintenance of the cemetery.

26. We are here today because the other avenues have been exhausted and will not provide a necessary means to ensure the long-term and sustainable use of the cemetery. In short, the council has considered the following four options, which I will go to in some detail.

27. To summarise them, the first is expanding the existing cemetery and all adjacent virgin areas of the existing site. The second is obtaining a faculty from the local diocese to enable burial space reuse. The third is exercising the existing statutory powers and the final is seeking to identify other land it could purchase and use for this purpose.

28. Turning to the first, which is using the existing cemetery, the town council has expanded the cemetery to the furthest extent possible and has utilised all virgin areas adjacent to the cemetery via the acquisition of two parcels of land. The first was acquired in 2011 and the second in 2021. These two parcels of land were both acquired from East Hertfordshire District Council by the town council. Together, these comprise the only unused land.

29. The town council confirms that the space available for additional burial space from these two additional plots of land has been factored into the calculations presented

in the document at tab 1, and which I will refer to as we go through today's proceedings.

30. Turning to the faculty, the faculty is available in tab 4 of your bundle. The town council has obtained that faculty from the diocese, allowing disturbance of human remains in a part of the consecrated section of the cemetery. The practical effect of this is to allow the reuse of common graves in that section of the cemetery. The power is actively being used for both coffin burials and burials of cremated remains that have taken place since 2018.

31. However reliance on this faculty has significant limitations. First, it applies only to the consecrated area of the cemetery. Secondly, as the faculty does not, and legally cannot, allow exclusive burial rights to be extinguished, private graves must be strictly avoided, whether they have been used or not. That is the case even where private graves are unmarked, which in many cases they are, and are not visited.

32. The consequence of this exclusion on private graves means that there is an effective exclusion zone. I would note in particular that, in the consecrated area in the old cemetery, there are a large number of mature trees, which further restrict the areas of reuse. As the cemetery is in a conservation area, any burial spaces that take place must not impinge materially on the root protection zone of the trees. In practice, while this contributes materially to the ambience of the site, it means that the faculty cannot be used to provide the full extent of burial space reuse.

33. The effects of this are illustrated in the figure which is available at the very back of tab 1 in your bundles. You will see that there are areas marked on that plan, A through to D. We do have an enlarged plan if you would like us to present it, but if the tab is sufficient I can continue.

34. THE CHAIR: Can you explain one thing I may have missed? The faculty does not extend to private graves. Why is that?

35. MR LATIF-ARAMESH: The faculty cannot be used to override or cancel an exclusive right of burial. Effectively, the faculty fulfils the same function in relation to the disturbance of human remains, but it does not say anything about the contractual rights that may exist in respect of private graves. In the absence of the Bill or other similar enactments, burial space reuse relies on getting over two hurdles. The first is

having the authority to disturb human remains. The second is the private interest related to the burial rights. A faculty only deals with the first of those.

36. THE CHAIR: I see. Thank you.

37. MR LATIF-ARAMESH: In the areas that are marked on the plan that I have just referred to, area A is the area in which graves are currently being reused under the faculty. I should note that the tree protection zones are shown in hatched circles. So you can immediately see how much of the cemetery is effectively prevented from use in connection with burial space reuse.

38. In area A there are approximately 68 graves that can be reused. Area B is not currently covered by the faculty. However, it is consecrated. The density of trees in the area is fairly low. While there are private graves, they are generally marked. Therefore the common graves in this area may be suitable if a faculty was obtained, but the private graves in this area would also become suitable should the Bill be passed.

39. Area C is not consecrated and therefore not within the bounds of the faculty. Area D is consecrated and covered by the faculty, and either has a high-density of the private graves, which, for the reasons I have explained in my response to Lord Etherton, are not suitable, or are covered by the root protection zone, in which case we would like to protect those, in line with the objects of the conservation area.

40. Taking all of these constraints together, it is estimated that there are approximately 156 graves that can currently be used. While there is fluctuation in grave use and capacity requirements, that would run out well within six to seven years. The Bill would enable the council to offer burial space for the foreseeable future. Furthermore, it creates an in-principle, ongoing, sustainable supply, as reused graves will eventually become reusable again, and therefore would be sufficient to accommodate the rate of demand in future.

41. Turning to the second route that has been considered, these are the other powers that the town council has by virtue of the Local Authorities' Cemeteries Order. Under that Order, burial authorities are permitted to reuse graves which have been purchased but remain unoccupied for 75 years. However, very few graves in the cemetery fall into this category, in addition to the constraints that we have already set out above. Using

that power alone yields only 13 usable graves, again not sufficient to meet the demand for a long-term, sustainable supply.

42. The next route that is being considered is further land acquisition. I would like to spend some time on this, because I know it has been raised and we want to give you the assurance that other sites have indeed been considered. In the first place, the promoter and the town council considered that it would be more appropriate to aim to reuse spaces in the existing cemetery sustainably than to acquire further land and reuse land in a manner which would prevent other uses. We will give concrete examples of how that manifests itself.

43. The point here is that both the promoter and town council recognise their obligations to consider the most efficient use of taxpayer funds and provide value for money. The costs associated with acquiring further land, obtaining relevant planning permissions and environmental permits, laying out the land and preventing its use for some other purpose has to be considered very seriously in this context. Notwithstanding we have considered other sites, there is an in-principle point to make about other sites, which is that the costs associated with that would be significant, but it also would not deal with a long-term, sustainable supply of burial space capacity.

44. Nonetheless, the town council has tried to address this issue by acquiring additional land. In 2016, the town council contacted local landowners and agents in an attempt to identify suitable alternative sites. No suitable land was found. There was, as I mentioned, the parcel of land that was acquired in 2011 and 2021. However, there is now no further land adjacent to the cemetery that could be acquired for burials. In September 2021, the town council again sought to acquire new space, and circulated a call for sites for suitable land to both landowners and estate agents dealing with non-domestic properties. Again, no sites were forthcoming.

45. This outcome is not unexpected. Land in and around the town is highly sought after for housing development. It is either not appropriate because it is in a flood plain, in which case it would be unsuitable for burials, or it is proposed to be used for one of those forms of development such as housing. The town council is therefore forced to conclude that there is little or no prospect of further land being suitable for use as a cemetery in the foreseeable future.

46. We note that Mr Careless has referenced specific sites within the council's control that he considers could be suitable for cemetery use. The town council and district council remain certain that it would be inappropriate and ineffective for the three sites that are mentioned to be used as additional burial space. Again, we want to deal with the three sites in some detail so that you have the comfort that these powers are being sought appropriately and by necessity.

47. The first site that is referenced is a site in Little Hallingbury at Jenkins Lane. This is not a suitable option. It is not within a convenient walking distance of the town. It is distant from any regular public transport. Furthermore, the site is accessed via a long narrow lane. The entrance is directly opposite the local sewage works. The town council considers that the site is unwelcoming, barren and isolated. It is outside the bounds of the parish and the county.

48. Taking all these factors together, it is not considered practical to create the serene, respectful and attractive approach, the environment that is necessary if a cemetery is to serve its purpose as a place where the living can remember, mourn and honour their relatives. The land in question also has other potential uses that are more suitable to its character and location. It is currently being used by a local beekeeping society.

49. At this juncture I want to pause, because I am mindful of my duties to this House. By way of a correction or an update, at the top of page 8 of the promoter response document, which is at tab 1, we refer to the potential for this site to be used for the purposes of a community orchard. To a certain extent, this is breaking news.

50. The update is that the town council appropriately commissioned some testing of the site to make sure it was suitable for that purpose. The testing has found some levels of contamination. While that testing is being considered and further testing is likely, the discussions around the use as a community orchard have been paused. I am raising this so that you are clear that we are not hiding this from you, but also to emphasise the point that it does not detract that this is not a suitable site, for all the reasons that I have mentioned around access, the suitability of the local area, as well as the fact that, notwithstanding these most recent results, the town council is in discussions about ensuring it can be used for a similar purpose, subject to the conclusion of the further testing that may be carried out.

51. THE CHAIR: It is being used for beekeeping.
52. MR LATIF-ARAMESH: At the moment it is being used.
53. THE CHAIR: But the idea is that in due course it be entirely used for an orchard of some sort.
54. MR LATIF-ARAMESH: Correct.
55. THE CHAIR: What is the type of contamination?
56. MR LATIF-ARAMESH: I am not clear on the type of contamination. They are very early results. It does not prevent the current activities, as far as I am aware.
57. MR PARKER: Yes, that is correct, sir. I believe the contamination is lead but my colleague is checking that. It does not prevent its current use. It is for beekeeping and training on beekeeping that it is currently used. It is also used as a utility area for council employees, for certain maintenance activities. That is a function that was relocated from the cemetery when we started to conduct the reuse of graves under the faculty, to the extent that we can, because it was detracting from the appearance of the cemetery. There is nowhere else practical to put to that function. So not only does the town council not consider that land suitable for a cemetery; it also considers that there are other uses for it, hence its exclusion.
58. MR LATIF-ARAMESH: Thank you. I am raising that so that it is very clear and transparent, and all parties are aware that that has occurred, so that the statement that is made around the community orchard in the promoter response document, which is prior to the test results, is not seen as the end of the story.
59. The second site that is mentioned is approximately two acres at Thorley Street. The appropriation of this allotment land, specifically at Thorley Street, was acquired by the town council earlier this year, away from the allotment use so that it could be used for the purposes of burial space provision. The suggestion that this could be used for burial space reprovision is wholly inappropriate.
60. It is currently used as allotment land. The site is intended to provide 14 new allotments. The acquisition of Thorley Street was funded from Section 106

contributions. As you may be aware, Section 106 agreements are provided as part of planning permissions where an agreement is entered into by a developer and the relevant local authority. They are intended to provide funds to be expended for particular purposes.

61. The funds in this case were for the purposes of the provision of allotment space. Therefore, the suggestion that this site could be redesignated for burials would frustrate the purpose of the funds that are secured under the Section 106 agreement, deprive the residents of the development, which is already partly constructed, and further exacerbate the acute shortage of allotments in the south and to the west of the town.

62. Even if this were not the case, redesignation would now require the permission of the Secretary of State, for which it is very unlikely a coherent argument could be made, having regard to the desirability of having allotment space. It is also by no means certain that it would comply with the Environment Agency's standards or receive planning permission for changes, particularly to the access, which would be necessary to make it suitable for burials.

63. It is worth noting that despite the fact that the site is being prepared for use and will not open until early 2024, and less than one-third of the adjacent housing development which it is intended to serve, there is already a waiting list of people wishing to take plots in the allotment, demonstrating the urgency with which the space is needed.

64. The third site is a relatively limited site by Havers Lane. The site was acquired by the town council in June 2023 and comprises a community centre with a small garden situated adjacent to it. While this site is adjacent to the existing cemetery, it would be entirely inappropriate for the town council to demolish a popular community centre. The small garden is used solely in connection with the community centre and is primarily used by the local scouts group. We note that, even if this land was to be reallocated for the purposes of additional burial spaces, it would yield an extremely limited number of graves. Evidently this would not represent a sustainable solution to the lack of burial space.

65. At this juncture, having dealt with the three sites that have been specifically raised, we want to make clear that, in principle, the acquisition of land, which entails

sterilising it from any other productive or amenity use, would not provide sustainable and long-term supplies of burial space. What it does do is entail costs, leads to sterilising it from further development, and it means that the town council is put in the invidious position of having to choose between community centres, community orchards, allotments and providing burial space. This Bill ensures it can do both.

66. BARONESS WILLIS OF SUMMERTOWN: Could I ask a question here? You have mentioned a couple of times sustainable use of the burial site, along with the very helpful map you pointed to. We have seen all the areas that they could possibly have those, but what is the actual number of new graves that you would have if this Bill were to go through? I cannot find that in the papers. I'm sorry if I have missed it.

67. MR LATIF-ARAMESH: Thank you, my Lady. I can give you the immediate answer now. If the Bill were enacted it would provide the ability to reuse approximately 1,800 graves immediately. Over the next century it would provide 4,000. What it does mean is that, even after the century is over, new graves would be capable of being reused, and therefore it would be sustainable.

68. BARONESS WILLIS OF SUMMERTOWN: It was the sustainable point I was getting at. Thank you very much.

69. LORD REAY: Excuse me for interrupting. Can I ask you about the trees? It does seem like your ability to have new graves is severely compromised by the trees and the roots. Can you explain how the trees have evolved? Were they planted or were they naturally seeded? What trees are they?

70. MR LATIF-ARAMESH: I will ask Mr Parker to comment on this point.

71. MR PARKER: It is a mixture of mature trees, many of which are of high value. They are surveyed by a professional tree surveyor once every two or three years. I will be honest; I do not know the history of how those trees got there. I don't know but I assume that they were planted as part of the original laying out of the old cemetery. The old cemetery, as a result, has something of the characteristic of an arboretum. It is a very, very pleasant environment. They are mature trees of mixed specie, and in the vast majority of cases are very viable, in the sense that they will continue to grow and do their function as trees for maybe hundreds of years.

72. Being in a conservation area, if we wished to cut down those trees or dig within the root protection zone, which we don't, we would require the permission of the district council. Of course, there are a small number that don't have a particular value because of their species or their limited viability, but other than those trees, I don't think that permission would be forthcoming. But we wouldn't want to ask in the first place because it is part of the essential pleasant environment that that cemetery has, and which the visitors value. I hope that has addressed your question.

73. LORD REAY: Thank you.

74. BARONESS THORNHILL: Could I interject, Chair, please. I think these things are always a fine decision, a fine line, a few fewer trees versus some more grave space or whatever. Presumably they must all be TPOs.

75. MR PARKER: They are not. Again, I am sorry I do not have the information to hand. I do not know whether some of them have a TPO. The way it works in a conservation area, if you wish to do any work on a tree within a conservation area over a given size – I cannot remember what it is; 100 millimetres trunk diameter I believe – you have to give a notice to the district council. They can then impose a TPO.

76. In practice, the way one goes about that, and we did go about exactly this process when we commenced the existing reuse under a faculty, is to go to a tree specialist. They would create an assessment of the significance of each tree, its viability and so on. They will prepare a report, which either justifies certain trees being felled, usually the younger ones that haven't grown or the ones that are somehow inhibiting another tree, or ones that are of poor viability, and tells you which trees cannot be or should not be felled.

77. BARONESS THORNHILL: I am sure all of that is very difficult but so is coming to having a Bill and seeing it through. It is a choice of process.

78. MR PARKER: Your Ladyship, it is a choice of process – both processes to some extent. For example, when we started the reuse of graves, to the limited extent that is possible under the faculty, one of the first things we did was to identify which area we were going to start with, which is area A in your bundle. It was fairly obvious from an inspection that there were certain trees within that that were not a problem at the

moment but would become a problem within a period of time. So we consulted an arboriculturalist and asked for his advice on how best to manage those trees, which ones should be thinned out, which ones should be left, before commencing the existing reuse process.

79. That particular area of the cemetery happens to have had a smaller number of mature trees and a larger number of immature trees. So it was possible to do some thinning out there. That is much less so in the core of the cemetery, where the trees are principally, if fact almost exclusively, mature yet still very viable trees. It's unfortunate; we probably should have brought a picture of the cemetery. It does have the character of an arboretum.

80. BARONESS THORNHILL: Thank you.

81. MR LATIF-ARAMESH: To comment on that, balance is the key word. For the reasons that we will go onto, we think we have appropriately balanced the public need for increased burial capacity against the private interests of those with burial rights, and their relatives, so that they can pay their respects, but also these environmental considerations. On the matter of consultation, I will deal with this very briefly because it is in your paper.

82. THE CHAIR: You've done three areas. Is that right?

83. MR LATIF-ARAMESH: Apologies?

84. THE CHAIR: You described what the position is as regards three areas.

85. MR LATIF-ARAMESH: Yes, the three sites.

86. THE CHAIR: Have you finished on that?

87. MR LATIF-ARAMESH: Yes, I have finished on that and reiterated our position that there is an in-principle concern about land acquisition being the right solution.

88. THE CHAIR: Yes, right.

89. MR LATIF-ARAMESH: On consultation, both the district council and the town council have publicly consulted. In the first round of consultation there were

approximately 40 responses. In the second, there were approximately five. Many of them were asking for clarification around how the Bill would work, which both councils provided. The first consultation was advertised in local weekly and monthly newspapers. It has been posted on noticeboards, council websites and the cemetery itself, so that, for those visiting, it could clearly be sighted.

90. We want to correct one matter, which is our engagement with the Church. It is not correct to say that we have not had detailed discussions with the diocese. Extensive engagement has been undertaken with the diocese. At one point they suggested that the Bill go even further than the precedents. We can confirm that copies of the consultation documents were proactively sent to all churches and places of worship within the locality, as well as to the diocese. Forgive me for listing the points, but I think it is important that you know that we have had this engagement with the Church.

91. Correspondence was had with All Saints' Hockerill, St Michael's Church, Bishop's Stortford Christian Assembly, Havers Community Church, Holy Trinity, which is a Church of England church, the Jehovah's Witnesses, St James Thorley, Bishop's Stortford Baptist Church, The Hub Church, the Bishop's Stortford Methodist Church, the Roman Catholic Parish of Bishop's Stortford, and Water Lane United Reformed Church.

92. BARONESS WILLIS OF SUMMERTOWN: Did you have any interaction with non-Christian religious organisations?

93. MR PARKER: We did not. The population of Bishop's Stortford is not ethnically diverse, shall we say. Almost exclusively, our customers are from either a Christian or not another religious background. We have no difficulty and would welcome burials or approaches from people from a non-Christian background. If this Bill is passed, we would confidently be able to provide areas for particular faiths, for example, should that be desired. If this Bill is not passed, I have to say we probably will not be able to confidently provide areas for different faiths. However, at the present time, the customers that we see are predominantly, I would say exclusively, of a Christian or Christian-like background, which reflects the nature of our local population.

94. MR LATIF-ARAMESH: I would add on that point that the purpose of publishing the notices in the local weekly and monthly newspapers, as well as noticeboards at the

cemetery itself, was to capture as many people as we possibly could. There was no intention of excluding people. A number of steps were taken. By identifying the relevant Christian places of worship and then going a step further by consulting the public more widely we hoped that we would get those responses.

95. MR PARKER: Not only did we advertise in the local paper, but the local paper was good enough to create an article, a piece of editorial, which occupied a fair amount of the page. That was probably more effective than the advertising, perhaps not surprisingly. We received quite a lot of queries in response to that article. Yet again, that emphasises that we made it very well known, and had no reason to do otherwise, that we were intending to pursue this route.

96. MR LATIF-ARAMESH: Unless there are any further questions on that, if I could briefly turn to our engagement with the Ministry of Justice, which is the relevant government department that has responsibility for burials and cremation policy.

97. In our engagement with Ministry of Justice, they have raised no objection to the Bill, though it is open to them, following the determination of this Committee, to report against the Bill. It is important to emphasise the point that no objection has been made. The sole request that has been made by the Ministry of Justice, which we have sought to accommodate, has been to request that part of the Bill, Clause 6, subparagraph 2(b), includes a reference to electronic notices, which is in the second paper of amendments before you.

98. THE CHAIR: To reflect electronic –

99. MR LATIF-ARAMESH: Electronic notices. The specific amendment is, as introduced, the Bill required notices to be published on the burial authority's website. The ministry requested that that was amended so that it would be on the burial authority's website or another form of electronic publication that is equivalent, effectively future-proofing the Bill in the event that the internet is taken over by something new, such as the Metaverse.

100. It is a precautionary provision which future-proofs noticing, to make sure that in the event that the internet is taken over or there's something more appropriate than the burial authority's website, that that can be used. That is the sole request that we have

had from the Ministry of Justice. We would ask you to consider that in the context of statements made about government policy.

101. LORD REAY: Did they put in writing that they had no objection?

102. MR LATIF-ARAMESH: We have had several email exchanges with them. This was the only point that has been raised. Finally, in accordance with the Standing Orders, there was further publicity of the Bill. There was, of course, an ability to petition against the Bill, and Mr Careless has indeed petitioned against the Bill.

103. We have carefully considered the petition. I'm not going to go through the detail of the responses, but the document in tab 1 goes through the comments made line-by-line. This is the very final section of my opening remarks, which is how the Bill actually meets the need.

104. THE CHAIR: Before you go on, in your very helpful comments so far, could you expand a little bit on why it is that you say you cannot use the general public statutory powers that are available?

105. MR LATIF-ARAMESH: Of course. There are a few limbs to this. The first is that, under the general public law, it is an offence to disturb human remains unless you have a faculty, or you have a licence from the Ministry of Justice.

106. THE CHAIR: This the Burial Act 1873 or whatever.

107. MR LATIF-ARAMESH: 1847.

108. THE CHAIR: 1847, Section –

109. MR LATIF-ARAMESH: Section 25.

110. THE CHAIR: 25, right, okay. That is your starting point.

111. MR LATIF-ARAMESH: That is the starting point, which puts up the first hurdle that I referred to earlier. You either need to get a licence for unconsecrated land or a faculty for consecrated land. The extent of the faculty, which we have gone through in some detail, is likely to come to an end. In relation to licences, the way that licences have worked in practise that you submit them on a case-by-case basis, which involves

an administrative burden in having to do that. It does not give the clear authority to proceed on that basis.

112. The second hurdle I mentioned is the position of private or contractual burial rights. Under existing statutory provisions, local authorities are able to reclaim some graves if they are not subject to exclusive rights of burial, if they are unoccupied for 75 years. It does not allow for the extinguishment, cancellation or otherwise treatment of private or contractual burial rights. That means, in effect, we would have to negotiate with each person who had the benefit of those burial rights, to surrender them or to agree to a cancellation.

113. That is not practical for two reasons. The first is that a lot of the people with exclusive rights of burial, or have the benefit of that, have been interred for some time.

114. THE CHAIR: Which Act are you talking about?

115. MR LATIF-ARAMESH: The ability to reuse graves which are unoccupied for 75 years is in the Local Authorities' Cemeteries Order 1977. That Order provides no ability to cancel exclusive rights of burial.

116. THE CHAIR: Does that mean it is common graves you are talking about?

117. MR PARKER: Does this need an explanation of what exclusive rights of burial are?

118. MR LATIF-ARAMESH: That is a helpful point. Exclusive rights of burial are those that are granted, in most cases, in perpetuity, rather than for a term of years. The Local Authorities' Cemeteries Order applies where you are not given exclusive right of burial, but you are given a time-limited right of burial. If that particular space has not been used for 75 years, that order allows for reclamation in those circumstances.

119. MR PARKER: If I might give a little bit of background, this might help your Lordships and your Ladyships. It is the practice in local authority and private cemeteries to have two types of grave, what are called common graves, in which the right of burial remains with the burial authority, and what are called private graves, in which the right of burial is generally transferred to a private person by means of an exclusive right of

burial, which is a private contract.

120. I cannot be absolute certain of this, but my understanding is that in church cemeteries the rights of burial are pretty much always retained by the church authorities. That is not the case in private cemeteries or in local authority cemeteries. It has been the case for over 100 years that rights of burial are effectively sold to individuals. They then have the exclusive right to bury people in that particular plot of land.

121. Until about 1977, the common practice in this country, and in Bishop's Stortford, was for rights of burial to be granted in perpetuity. The Local Authorities' Cemetery Order 1977 outlawed that practice, but we still have all of the graves that were sold prior to 1977, where the rights of burial were granted in perpetuity. That is a private right held by individuals such as Mr Careless, which the faculty cannot extinguish. The only way to extinguish is by some act of law.

122. The Local Authorities' Cemetery Order allows us to extinguish such rights of burial if they have not been exercised for 75 years, but it does not allow us to extinguish such rights of burial where they have been exercised. That is the second power that this proposed Bill would grant us if it were passed, and is the second power which is necessary to deal with private graves.

123. Again, by way of background, the vast majority of older private graves – I am talking about graves that may be 150 years old – are not visited. They are not tended. They fall into disrepair because with the passage of time, inevitably, the relatives, for whatever reason, no longer choose to visit those graves. We are talking about a large number of graves where the rights of burial still exist, but the relatives, in practice, do not visit them. I hope that clarifies the situation.

124. THE CHAIR: So the category we are talking about that falls outside the 1977 Local Authorities' Cemeteries Order is a category where, typically, they were granted a private right before that date, in perpetuity – I am talking about in practice – and where the right of burial has not been exercised for 75 years.

125. MR PARKER: Yes, you are right. That is correct.

126. THE CHAIR: That captures.

127. MR PARKER: Yes, that captures it.

128. THE CHAIR: You want to capture those that were pre-1997, which were granted in perpetuity.

129. MR PARKER: That is correct, because those are the ones that, today, are sufficiently old, in other words the last burial was sufficiently longer, that the remains have decayed. The relatives, in most cases, no longer have an active interest in that grave, and therefore it would be practical to reuse.

130. VISCOUNT STANSGATE: Am I right in saying that the figure you gave earlier of 1,800 graves that would be immediately available if the Bill went through is the group that you are describing now?

131. MR PARKER: Yes, that is the group that we are describing now. Well, 1,800 is an estimate, as Mr Latif-Aramesh said, because we have had to make an estimate as to the effect of the trees and the number that they would take out of being able to be reused. But, yes, it is that group that is that 1,800.

132. VISCOUNT STANSGATE: That would include the 13, which you mentioned at an earlier stage, that you said had been purchased but never used.

133. MR PARKER: No, that does not include those 13 because those 13 can be reused under existing powers in the Local Authorities' Cemetery Order 1977 by terminating those existing rights of burial, which has been done.

134. BARONESS THORNHILL: Can I clarify between the principle and the reality of the situation that we have before us? Please correct me if I'm wrong. My reading is that with Mr Careless' situation, even if the Bill were enacted, you would still have to seek his permission and he can deny that permission. Is that correct?

135. MR LATIF-ARAMESH: That is correct. I was going to go through the protections that are in the Bill, because they touch to the principle and how we have reached the appropriate balance.

136. BARONESS THORNHILL: Okay, thank you.

137. MR LATIF-ARAMESH: Unless there are any questions on that, I will turn to that

specific point now.

138. MR PARKER: The town council has absolutely no desire to reuse graves where there are living relatives who have an interest in it. That would not be an appropriate thing to do, which is why the protections are built into the Bill. What the town council does have a desire to do is to reuse graves, subject to all the protections in the Bill, where they are otherwise untended, unvisited, but the ground is effectively sterilised from productive use.

139. MR LATIF-ARAMESH: Before turning to the protections, to underline the point around the two specific hurdles, there's the issue of the private rights, which Mr Parker has just gone through in some detail. Then there is the additional offence, under Section 25 of the Burial Act, which is disapplied under the Bill, subject to the protections that are provided. Those two reasons work in tandem as our justification for seeking these powers.

140. The protections in the Bill itself: there are six main protections. It is important because it goes to the point of balancing the public need for burial capacity and ensuring that private rights are appropriately considered in the process.

141. The first is that the power to extinguish burial rights cannot be used in a grave unless at least 75 years has passed since the last interment. 75 years is a specific number that we have given consideration to. It strikes an appropriate balance, because 75 years after the last grant or the last burial effectively provides time for two or three generations to pay their respects. This is the practice of the Church across the country. It is the practice that has been accepted and endorsed by Parliament in the Local Authorities' Act 2007, the New Southgate Cemetery Act 2017 and the Highgate Cemetery Act 2022.

142. BARONESS WILLIS OF SUMMERTOWN: Is there sufficient documentation to know the age of every grave?

143. MR PARKER: Yes, there certainly is. It has been a requirement since the inception of local authority cemeteries that detailed records are kept of graves, grave owners, those interred in it and so on. I can confirm those records go back to 1850 or thereabouts, when the cemetery was opened. Furthermore, they are easily searchable.

Obviously they were originally kept in script. They have subsequently been digitised in a way that can be searched, so that is easily discovered.

144. VISCOUNT STANSGATE: In relation to what you call generally untended graves, with the passage of time and, for example, the greater interest of families in their ancestors, the greater wish to trace back, is there any way of knowing whether, if we had met 50 years ago, a grave might have been untended or unnoticed, but since then, attempts are being made to discover where ancestors may lie in this cemetery? If people do come to the cemetery and try and trace someone who they think may be there, records exist, as you say, digitised. Is there any way of knowing whether there is a greater interest in tracing ancestors or not?

145. MR LATIF-ARAMESH: I would make two comments. The first is that under the Bill there is there is a requirement to keep a record of any removals or the exercises of the power. In 300 years, if someone attended the cemetery and wanted to find that information, there would be a register of it. In addition, the protections extend not just to providing notice to the last address that was recorded, but a wider consultation requirement. It is considered appropriate in those circumstances that that would draw attention to the proposals. Again, in this context, I would note the notice that has to be published on the website must include the names of the rights or the person with human remains interred. So there is a way of accessing this information.

146. VISCOUNT STANSGATE: So it is searchable.

147. MR LATIF-ARAMESH: It is searchable through the notices that would have to be published. The record itself that I mentioned on the exercise of the powers specifically says that it must be open to the public for the purposes of inspection.

148. That does relate to the second protection, which is: the Bill would require the burial authority to give six months' notice of proposals to extinguish burial rights. If the registered owner objects, the rights cannot be extinguished. It is an absolute block on proceeding. So where there is an owner of the relevant burial right who objects, that is the first veto point.

149. In addition, there is a protection for any other person to raise an objection. In those circumstances, the proposals can only proceed if the Secretary of State consents. This is

effectively recreating the situation that exists with the existing licence provisions. Again, this is an appropriate balance, because we are seeking, where no objection is received, to proceed.

150. THE CHAIR: It is quite complicated to work this all out, but that is really for some time in the future. That does not relate to the existing category that you would be entitled to remove the grave, the ones you have talked about, the ones granted in perpetuity before 1977.

151. MR LATIF-ARAMESH: That is the primary category, but the notice requirements extend –

152. THE CHAIR: The reason I mention that is because one would have thought that as regards that category, the registered owner no longer exists. I have no idea whether you could trace it through somebody's estate or series of estates, which I thought would be quite impossible in practice. But the registered owners won't exist or won't be traceable for that category.

153. MR LATIF-ARAMESH: The town council, in its capacity as a burial authority, sees a registered right of burial as a heritable asset. So it is possible for it to be passed down and the records updated to reflect that. You are quite right that, given what Mr Parker has said about the age of some of these grave spaces, it is unlikely. But that is also a reason why it is difficult to negotiate private agreements to surrender the relevant rights to enable –

154. THE CHAIR: Forgive me interrupting. The only reason I mention that is because you said the first thing is the registered owner can object. My point simply is that as regards the primary category you are looking after, unless you can trace the descent of this right of burial in some way or other, that is not going to be a viable right. It would be a right in the future, when people take out burial rights, and that is fine, but I do not see that as a major factor here. The major factor for the majority of the graves that you are talking about is going to be dependent on either the Secretary of State's consent or, when you come to remove the remains, are you a relative as defined? That is the point I am trying to make.

155. MR LATIF-ARAMESH: Understood.

156. MR PARKER: I think in the majority of cases it is unlikely that anyone would come forward. In the majority of cases, where graves are untended and there are no interested relatives around, it is unlikely that anyone will come forward and try to establish a case that they are the inheritee of the ownership of the grave.

157. Nevertheless, it is possible that someone could do that. That would be respected, and is respected, in the protections within the Bill. Particularly in large and more established families, quite often those sorts of things are – it is possible for someone to prove that they are the inheritor of a grave that was purchased 100 or 150 years ago.

158. You are right to say that it will be a rare occurrence. Nevertheless, should that occurrence take place, the protections within the Bill allow them to demonstrate that they are the owner or the descendants of the owner and make an objection should they choose.

159. BARONESS THORNHILL: For clarification, if Fred Bloggs, who has nothing to do with the grave, decides to object, that objection is legitimate, but you then have to go to the Secretary of State. Is that what you were saying?

160. MR LATIF-ARAMESH: That is correct.

161. BARONESS THORNHILL: Right, thank you.

162. THE CHAIR: We have to remember, the reason it is quite complicated is because there were two stages. One is the removal of the grave. The second is the removal of human remains. They are two separate stages, although I would imagine in most cases you would want to do both.

163. MR LATIF-ARAMESH: That is correct. The notice provision is specifically drafted to allow the notice to cover both. But you are right that it would be phased in that way. You would not be able to disturb human remains.

164. THE CHAIR: The issue, which is an issue for the petitioners, is about the definition of ‘relative’, which is protection at the second stage, not the first stage. You were just talking about the remove of the grave. That means the gravestone and the monument, I assume. When you are talking about that then we are typically talking about one, so far, registered owner – I would think quite difficult for most people in

relation to the group we are talking about – or the Secretary of State. Anyone can come forward and object, but then you have got the Secretary of State. When you get to the second stage, there is a much wider group of people who can effectively veto the remove of the remains. The question is: is it wide enough?

165. MR LATIF-ARAMESH: We understand the point. What I was seeking to do in this part is to summarise the protections that were in place. We are happy to address the definition of ‘relative’ now.

166. THE CHAIR: I was simply trying to clarify for myself apart from anybody else. I have probably confused everybody else but at least I satisfied myself that I understand the different stages and the different mechanisms. That is why I picked up your point when you very much emphasised that the first thing is the registered owner can object. I am actually saying to you that I wonder how important that really is today.

167. MR LATIF-ARAMESH: I am grateful. It is readily acknowledged that each one of the six protections I am looking at should not be looked at in isolation, because alone, if they were isolated with none of the other ones, we would not have come here today arguing that we have struck the appropriate balance. That is just one.

168. The second is ‘any other person’, Fred Bloggs, in your example, objecting cannot proceed without the Secretary of State. The third, which Lord Etherton has referred to, is the right of relatives to object to the second stage, the disturbance. That is effectively a bar for 25 years. Only after that 25 years, the burial authority would then have to reissue the same notices. If they objected again, that would be another 25-year block.

169. The Bill includes requirements for notices. This is not a cloak-and-dagger approach to grave reclamation. It is publicising in newspapers and online so that it is brought to people’s attention. Those persons, if they cannot be contacted, can then raise the objections at the relevant points.

170. THE CHAIR: On the second stage, you have done the relatives.

171. MR LATIF-ARAMESH: Yes.

172. THE CHAIR: I cannot remember, but if you have not got a relative you still need the Secretary of State. Is that right? Are relatives the only safeguard at the second stage?

173. MR LATIF-ARAMESH: At the second stage, that is correct.

174. BARONESS WILLIS OF SUMMERTOWN: What about a grave of a person of historical significance?

175. MR LATIF-ARAMESH: On that specific point there are three relevant protections. One is for Commonwealth and war graves. The powers cannot be exercised without the consent of the Commonwealth War Graves Commission. The second is in relation to consecrated graves; the jurisdiction of the Church is unaffected. The third aspect is, having finished my list of protections that are contained in the Bill, I want to make clear what the Bill does not do.

176. What the Bill does not do is remove any existing heritage protection that is currently in place. The need to obtain planning permission for any development is not removed by the Bill. The need to obtain consent for the authorisation for works to a listed building, which is often the category that you have raised, is not removed. The designation of any new listed building or the processes for existing scheduled monuments, including those in a conservation area, is not affected.

177. I should pause on that point. Because the old cemetery is in a conservation area, there is a direction that says that any tombstone or memorial that was erected before 1925 is caught by the same protections that exist for works to listed buildings, even when they are not specifically listed, by the date they are caught.

178. The answer to your question is, there are some existing provisions in the Bill that give specific requirements. The notices also have to be served on Historic England. If they had a concern, they would be able to raise an objection at the first stage, as any other person. I also want to make it clear that there is no intention to seek to disturb cherished and historically sensitive memorials.

179. VISCOUNT STANSGATE: What assessment have you made of how many there are that are covered by the general term 'heritage graves'?

180. MR PARKER: It would be wrong to say a formal assessment has taken place. By 'heritage graves' I take it you are referring to people of historic significance. There are a small number of quite well-known families, such as the Gilbeys of Gilbey Gin, the

Markwells, which are very well known locally, and one or two others that have typically quite extensive groups of grave space within the cemetery. It is probably a few dozen graves in total, so it is a handful of families.

181. They are typically families that still exist in one way or another and can be contacted. For example, when we attempted to reclaim graves under the Local Authorities' Cemetery Order 1977, graves that were unused for 75 years but had been purchased, many of the ones that we sought to reclaim were within the ownership of families whose names we recognised, who we were, in one way or another, able to contact and who declined permission for us to reclaim them.

182. Although a formal assessment has not been made, this is not Highgate Cemetery. This is a different cemetery in terms of the number of famous people in it. Informally, I can say there are perhaps a handful of people or families of historic significance who are represented that we know about. As Mr Latif-Aramesh has said, there will be no intention of disturbing compounds of that kind. There is no need to. There is enough space within the graves that are not visited. In many cases, there is no memorial. Many of our private graves are unmarked. There is no need to even contemplate such a thing.

183. As has been mentioned, Historic England is one of the people who are notified. If, by chance, there was an individual who was of historic significance and, for whatever reason, that was not recognised by the town council, in the sense that they just happen not to know about it, presumably, there are many opportunities for that to be pointed out.

184. MR LATIF-ARAMESH: Before I conclude, on the point of the assessment, it is worth putting the fact that there has been no formal assessment in the context of the fact that those existing protections are in place. It would not be appropriate to take an inchoate power and run an assessment when the planning process, the environmental protections, the conservation protections that we have, require those prior to any acts on those memorials of significant heritage status.

185. To conclude, together, all of these protections, both the ones that are unaffected by the Bill and the ones that are specifically in the Bill, balance the interests of those currently interred in the cemetery and those who wish to be in the future. We acknowledge there is a careful balance between the rights and interests of existing burial

rights holders and relatives, and the need for further capacity so that more people can pay their respects. For the reasons set out, we believe the Bill achieves that careful balance. On this point we would note the Government Attorney-General agrees that the provisions of the Bill do not conflict with the European Convention on Human Rights.

186. We have responded to each sentence made by Mr Careless, who we thank for his time in holding our feet to the fire and making sure that our positions are robust. As I hope we have assured you, in light of the acute need for burial space, the protections provided, ensuring that alternatives have been considered and ensuring that those who seek to prevent graves from being reused can do so, but also ensuring that local inhabitants are able to continue to bury their loved ones and pay their respects, we have reached that appropriate balance.

187. We would humbly request that the Committee allows the Bill to proceed, to ensure that the town council has the same powers that Parliament has provided to private companies and local authorities in other parts of the country where such a need has arisen. Thank you.

188. THE CHAIR: Thank you. I have one final question. I am perfectly happy if you want to leave it to your reply. I think you indicated that Mr Careless and those he is acting for would be covered by the relative veto, if I can put it like that, for removal of remains. I question whether that is true of the three infants who died and are buried separately from their parents. That is Mary, Sarah and Joseph, because they obviously have no lineal descendants. They are not buried in the same grave as their parents, from whom there may be some lineal descendants. It's something you might want to look at over lunchtime.

189. MR LATIF-ARAMESH: Thank you, my Lord. We are happy to address that in our reply.

190. THE CHAIR: Do you want to call a witness on this part?

191. MR LATIF-ARAMESH: No, thank you, my Lord. Mr Parker has made the submissions he has but there are no further submissions from us.

192. THE CHAIR: Mr Careless, would you like to address us?

Submissions by Mr Careless

193. MR CARELESS: Yes, my Lord. I rely on your direction here. When I spoke to the litigation manager it was agreed not to take anybody by surprise with what I was going to say. When I filed my exhibits electronically, and also filed the statement that I was making, a lot of which my friend here has responded to, I also suggested – and it was agreed – that I would bring hard copies this morning to save you having to write down notes when you are listening to me, but perhaps just annotating what I am saying so that you can ask questions on it. If you would like, sir, I would hand round hard copies.

194. THE CHAIR: Hard copies of your statement?

195. MR CARELESS: Yes. Then I would make a brief statement and read the statement that I filed. At that same time you will be able to look at the exhibits referred to in my statement so that you get a complete picture of, I think, a rather complicated situation, if you would be happy with that.

196. THE CHAIR: Mr Careless, we do have hard copies of your statement in a file we have all been given and we have all read it. It is extremely important that you feel that you have had a fair crack of the whip. That is very important for both sides.

197. Speaking for myself, and I think for the rest of the Committee, reading out what we have already read, some of us several times, is probably not going to advance matters. Where we would absolutely be helped would be if you want to elaborate. You could take it page by page and say on page 1 you would like to elaborate on this point, or you would like to refer to that particular exhibit. We could annotate at the side. We have read this, as I said, some of us a number of times.

198. MR CARELESS: My Lord, shall I hand around the hard copies of the exhibits for you?

199. THE CHAIR: We have got all of those, but we will not all have read all the exhibits. So if you want to refer to exhibits that would be useful. If you are agreeable, what I would suggest is that you go through your statement by saying, ‘On page 1 I would like to refer to this exhibit that is related’ or something on those lines, or add to what you have written, if you wish to do that. Just reading it through would not be a

very good use of our time.

200. MR CARELESS: I will ask my brother to hand round the –

201. THE CHAIR: We have got the exhibits. Which exhibits have you got? We've got a file with 13 exhibits in it.

202. MR CARELESS: You've got everything, have you?

[Sotto voce discussion]

203. MR CARELESS: Sir, yes, I am happy that you have got everything.

[Sotto voce discussion]

204. THE CHAIR: Why don't we see how we get on? We have got one bundle. If it looks as though you are referring to things that are not in our bundle, then we need to redistribute, but I don't want members of the Committee to be overwhelmed by paper that may not be necessary. Let us start off. You carry on now.

205. MR CARELESS: The preamble to the Act is to increase space for interments. To do so would involve disturbing human remains, which presently is against the law. The correct section for that is Section 25 of the Burial Act 1857, which I think was misreferred to as 1847.

206. The proposers claim an acute shortage of available places. My position is that this is erroneous, especially as regards one of the places that was referred to today, which was Jenkins Lane. You have been referred to three sites in Bishop's Stortford. The one in Havers Lane has a community centre on it, which has only recently been purchased from the district council at the price of £400,000. Havers Lane is immediately adjoining the cemetery. From what I have read, the district council are contemplating selling yet another community centre to the parish council. I do not wish to appear to be tough on this. Of the parish council's 17 members, nine are also dual members of the district council. I have found when dealing with this, it is rather like dealing with a sub-committee of the district council. Sites that we knew were available are all of a sudden no longer available.

207. You have been told about Jenkins Lane. The *Bishop's Stortford Independent* is the

only local newspaper that circulates, all the other ones having become digital. I was fortunate enough to read a report by one of its correspondents. I will read it to you because it is not in the bundle.

208. ‘A community orchard has been proposed for land in Bishop's Stortford that might be needed as a cemetery.

209. ‘Bishop’s Stortford Climate Group has put forward a plan to the town council for its five-acre site at Jenkins Lane with a request for a peppercorn rent and a 20-year lease.

210. ‘The scheme was discussed by the council’s environment and public amenities committee after chief executive James Parker flagged up potential problems if it granted the request.

211. ‘However, the group wants to plant heritage and high-cropping fruit trees – predominantly apples with pears, plums, crab apples and cherries for a variety of blossom and fruit – and, once mature, they could prevent use of the land as the town's back-up burial ground.

212. ‘He suggested that the climate group could accept a condition allowing the town council to remove fruit trees before they become too big or agree to plant the trees in avenues compatible with also using the land for burials in future.

213. ‘The environmentalists told the committee they hoped to work with other volunteers and local schools on the project.

214. ‘They said: “We are a group of eight keen residents who together have experience of running voluntary organisations, fundraising, working in voluntary capacity in conservation, ecology, gardening and personal experience of tending fruit trees and educational work. We are in contact with the East of England Apples and Orchards Project, who can provide practical advice as requested.”’

215. Mr Parker said this could affect their ability in the next 30 to 50 years. I put that forward as that does not fall into my interpretation of an acute shortage of land for burials. The government advice sites are quite happy to tell you that, on five acres of land, you can accommodate 5,700 burials. If this was a London private cemetery you

would be looking at something like 12,000 burials. But this is not London. This is a small market town of 40,000 population whose population dies at the rate of 3.2% each year, unlike London, where the annual death toll that has to be dealt with is 59,000 head of population each year.

216. The other sites referred to are a two-acre site, which was completed on 23 March this year – a joint purchase, apparently, between the district council and the parish council. We are told today that this is in a flood plain. I would have thought that, to substantiate that, a plan would have been put forward to show you the extent of any flood plain. But in fact this site falls outside of any flood plain. If you add the five acres to the two acres as being available for burials, that gives you seven acres of land. The old cemetery is eight acres of land, so they have enough land to be able to accommodate a large number of people.

217. In your bundle of evidence I also showed you an analysis of the paths and circulatory system in the old cemetery. That was calculated by a mathematician, Michael Worsley, who worked out that nearly one-fifth of the old cemetery was occupied by paths and the circulatory system. With that information, what do we have as a counterargument?

218. All of a sudden Jenkins Lane has become contaminated with lead, they think. There is no final analysis. Quite frankly, do the dead care about lead in the land? I would have thought not. Of the other two acres, we are now told that this should be used as allotments. In my statement I have pointed out to you the legislation. It is quite feasible for land that may be used for a temporary purpose or not-so-temporary purpose eventually to be used for something else, only by a parish council. District councils do not have this power.

219. You can see the practical reason for this. It saves the district council from buying land as an allotment and then using it for housing. But there is always a swing and a balance. If the parish council eventually says, 'We need to use this land that we temporarily let out for either an orchard or an allotment,' we have the power to say to the Government, 'We need to do this'. It is up to the Secretary of State to say, 'Let's have your arguments'. If they agree that at that time there is a need for burial spaces, there is no reason why he should all of a sudden be prejudged by the parish council

today that he would not give it. That is not their decision to predict.

220. I was disappointed – and it is referred to in the presentation made to you about the Ministry of Justice’s principal adviser, Mrs Julie Rugg, whom I inadvertently miscalled in my petition. Unfortunate, that. I can only explain it away by saying I had a client once who was called Bagg and once you think of it, it is always there.

221. I did not realise that she was a public advocate, as my friend has pointed out, of reburial. She appeared on *ITN News* to put forward this case, which I was disappointed in, especially as she used Highgate Cemetery as an example. Highgate Cemetery is not a public cemetery.

222. This House, I would suggest, helped out Highgate Cemetery. Questions have been asked in the House of Commons about what is happening to Highgate Cemetery. They came to this House scrutinising Committee and said, ‘We are in trouble financially. We have had Covid. We are running at a huge loss. Can we reuse some graves? We are only burying 17 people a year’.

223. That is not where their money came from. Most of their money came from excursions, a tourist destination. They have enough visitors each year to pay half their operating costs. That is without the teashop and the guest shop.

224. I am quite happy that Highgate had the opportunity of reburying because it gave them the cash flow to be able to preserve, as the Attorney-General suggested, a balance between the people who are buried there and not having the cemetery passing to public hands at public expense.

225. But that is in a separate category. We have here a municipal cemetery. I use the word lightly because if you have read my notes you will see that the Act is misnamed. The old cemetery is in fact a burial ground that was created under the Burial Acts. It is not a cemetery. I agree that, under the Burial Acts, part of it had to be consecrated. Over the road you have what they call the new cemetery, which was created out of allotment land.

226. If you put the two together, it becomes apparent that the old cemetery and the new cemetery were on the outskirts of the town. At the time when Chadwick was doing his

burial reformation and trying to create a national necropolis, which he indicated should be at Brookwood and which failed to get off the ground properly – as a detour, Brookwood Cemetery is 24 miles away from Oxford Street. It was purchased from Lord Onslow, 2,200 acres of gravel, which was not fit for any form of agriculture.

227. A private Act, I believe – I'm not sure – was promoted to create the Brookwood Cemetery. Then, according to Ms Julie Rugg, there was then some jiggery-pokery going on insofar as 2,000 acres was sold off for redevelopment and only left 200. It seemed to coincide at the time with when the first crematorium at Woking was created. I am losing my track here.

228. THE CHAIR: You were distinguishing between Highgate and this. That is when you started on this particular part.

229. MR CARELESS: Thank you, my Lord. I am grateful to you. Being a municipal cemetery, they have access to the rate fund, but the point which has come back to me is that the cemetery was extramural at the time. There were no local authorities then. For the health board to be able to achieve the creation of a burial ground in 1854, it had to get a loan to buy the money from what was, or perhaps still is, the Public Works Loans Board and create a cemetery in the way that was laid down by the regulations of the burial board in London.

230. That included having it in a position where it was ventilated and in land which was suitable – I am quite interested to see that my friend has not suggested that the land is not suitable – half of it to be consecrated. It should have a separate non-conformist chapel and an Anglican chapel. The graves, according to the Ms Rugg, had to be of a sufficient dimension and sufficiently away from each other. In this way you can see for yourself that the density of graves in the cemetery is nothing like the density that private companies in London subjected their interments to.

231. As you saw from my notes, the Church has obtained a measure to be able to disturb bones. I perhaps ought to remind the Committee that my family, not myself, were Baptists. That is why they were buried in the unconsecrated section. Bearing in mind they are all Christian, but if they had been Anglican they would not now have the protection of the Church of England. At the moment, being in the unconsecrated section, they are safe from disinterment without the licence of the Secretary of State for the

Ministry of Justice. You have to look at what he perceives needs to be done. He will not issue a licence simply for reburial.

232. As far as everything that I have read and submitted to you, including the rather – I can't say 'odd' – name of the MP Fiona Bruce, which I always think of in the *Antiques Roadshow*, she asked a question in the House of Commons and said, 'What steps can the Government show that people can have access to burials locally?' That is all she said: 'locally'. She did not say in the same cemetery, but locally.

233. How much more local can you be than having seven acres of land in Bishop's Stortford that can be made available? I had to go to the county record office for a copy of the sentence – lovely word that – of consecration. I think it has been corrected today, but that shows the area of consecrated land is greater than the plan shown on the one that went to the diocese. That point may have been missed because the additional consecration, that sentence, added a further piece of consecrated land.

234. When you analyse the plan that actually did go to the diocese, you find that there are only 124 private graves in that area. That is all. The rest of them are common graves. As you have heard, the distinction between a common grave and a grave in perpetuity is that a common grave has no right of burial. It was in London where, before the war, one in 11 people had a pauper's grave, which is terrible for an imperial city like this. They would dig as deep as they can get, and you would go in one after the other. There would be no family connection. You went in with whoever was next in line.

235. With a grave in perpetuity, initially that started off because you could not have more than two people in one grave. That is how it started. It was not a prestige thing. If you wanted a family member to be buried with you, you bought a grave in perpetuity. This came about because, naturally, wives want to be buried with their husbands. What my great-grandfather did was to buy a family plot. I have given you copies of the burial grant. I don't know whether that included the three infant children or not. I suspect it does not. I suspect they are in a common grave. I don't know.

236. THE CHAIR: My information about the three infants not being buried with their parents was from your statement.

237. MR CARELESS: Yes. Those infants died in 1865. I think my great-grandfather

and grandmother drew a line under that. They died as a result of the diphtheria epidemic, which followed hard on the heels of the cholera epidemic. Although I lived in that area for a long time, it always struck me as a most unhealthy place. Cambridge, which is only a few miles away, had to create its own cemetery for cholera victims.

238. He decided, when his next son died from tuberculosis, to buy three graves. If you look at it, anybody looking at it who is not a member of the family would not realise that this man has created a grave space for all his family. On top of that I have given you the connection between the Markwells, which I have now learned today is a well-known name in the town that I think had not been made before. The Markwells themselves were similarly afflicted by very high infant mortality. One of the children was brought up by my grandmother and the two graves are interconnected.

239. I also showed on that plan a photograph of the Markwell grave, which I think one of your members has picked up, with a blooming tree growing out of it. My friends have not put forward any formal tree planting scheme to show how the architect laid out either cemetery when it was created. I think anybody who has a family member buried in the cemetery will know that trees have a tendency not only to keep growing, but also to self-seed and create a coppice unless they are probably maintained and cleared out. The greenery coming out of the Markwell grave is evidence of that.

240. I have concentrated on the law at the beginning, having been in local government myself. At that time, before the Localism Act, what was in the Acts of Parliament was as far as you went. You have got to distinguish the legislative framework for a municipal cemetery from, firstly, London local authorities, and secondly, private companies. If Julie Rugg was here and you asked her 'How many private companies survived?' she would say, 'The majority failed'. That includes the ones which did stagger on until they were taken over by a local council.

241. We have heard about the heritage effect, being protected by various pieces of legislation that came about in the middle of the last century, because we are in the 20th century now. This is deceptive. I have a problem with graves being marketed as heritage graves. I am pulling this out of the air now. For example, is the grave of Winston Churchill a heritage grave? If you looked at the slab of stone that is there, has that got any architectural merit?

242. The heritage is in the grave itself. I know for a lot of people in the London cemeteries, as one of the MPs said, they do not belong to the family. They do not belong to the nation. They belong to the world for what they have given, and people want to know where these people are. Without looking at my notes, I think it was the Brompton Cemetery where eventually it was restored, and the MP made that very point. You cannot dismiss this grave because of the writers – which is what this House considered when it was looking at the Highgate Act.

243. I do not wish to insult my friend who appeared on that Bill. I think Highgate is a heritage cemetery because of the people that are there, but it has also become a vanity cemetery. I said to my daughter, ‘Why would you want to be buried with Bob Hoskins? Is there any reason for that?’ The tours go around there and say, ‘This is this. This is this’. You have other cemeteries as well where Reuter was buried. Do you say, ‘It doesn’t matter. We know. We will put his name up over there, that he was buried in this cemetery. We will dig him up and we will use his grave’. I think that is a destructive thing to consider. If all you can say for protection is ‘Talk to Heritage England or something like that’, that is not getting to the point.

244. THE CHAIR: If you are not able to object directly, the Secretary of State has to give consent to the abolition and extinguishment of the rights of burial.

245. MR CARELESS: I agree.

246. THE CHAIR: That is a point that will be raised with the Secretary of State, no doubt.

247. MR CARELESS: The point about relatives is I am a lineal descendant. My daughter is a lineal descendant. My brother is a lineal descendant of people in my grave. That band of relatives is very narrowly defined, and it is defined for a reason.

248. Every town has somebody who is a mischief maker. If somebody puts in an objection then that is something which the local council has to deal with. All right, they have got to stop dead, but, if you are not related or have no interest in the grave, would the Secretary of State be likely to uphold that objection? Most probably not.

249. One of the last things which I did before I left local government in 1974 was

commons registration. Commons registration came in and all of a sudden you had everybody coming out of the woodwork saying, 'Oh no, that bowling green is a common' and they would register it. So while we were actively engaged in trying to bring the council to a satisfactory conclusion, we were having to fight off unnecessary claims over pieces of land that never were and never had been commons. But the facility was there for that person to put in the objection and had to be dealt with.

250. We did discuss collateral relatives. I do not think the law is going to change on collateral relatives at all. I think it is going to be for lineal, for the simple reason, as you pointed out, my Lord, you have got three children there and my great uncle Charles. They are not going to have any children. They did not have any children. I would be a collateral relative to my uncle Charles.

251. My great-grandfather William was one of four children. He outlived his entire family bar my grandfather and that is why I'm here. His brother, also called Charles, was in Cambridge. He had nine children and a grandson. He outlived them all, even his grandson, who died on the Somme. He also outlived his other child. James and Mary, both of them died, but William's father married again.

252. Rather bizarrely he had one child whom he named after his late wife. You think, 'Oh right, fine, you have got a half-sister'. That girl went on to have 14 children and 30 grandchildren. It would be an impossible situation for any local council to say, 'We have got to contact all these people'. I am not making an objection just simply for making an objection. It has got to be practical.

253. THE CHAIR: But you are asking for the definition of 'relative' to be extended to include collaterals. You seem to be saying now that you realise that is impractical.

254. MR CARELESS: If you see fit, my Lord.

255. THE CHAIR: If the local authority sees fit.

256. MR CARELESS: If you see fit that it is appropriate.

257. THE CHAIR: Oh, if I see fit, or the Committee.

258. MR CARELESS: Yes. I think that point raised by one of the objectors to

Highgate. I think one of the objectors before this Committee was a barrister whose infant child was buried in Highgate. He wanted the definition of 'relative' to include nephews and nieces. I believe that alteration did not go through. It was rejected by the Committee sitting at the time.

259. THE CHAIR: Yes, it was rejected by the Committee sitting on Highgate.

260. MR CARELESS: Yes. As regards New Southgate Cemetery, which you have been referred to, it sounds quite convincing that you have two private Bills there that went through. Perhaps I am the only one who has come forward to object because there were no objectors, no petitioners against the New Southgate Bill. It just went through on a nod. Nobody objected so therefore there was no proper discussion.

261. The former town clerk, Mr Parker, has put forth that, as far as his authority is concerned, these rights are heritable. One of the illustrations my friend could have done could have been Scotland. Scotland was mentioned in the library briefing document, which I hope you found interesting. The Scottish Act went through in 2016. The legislation provided for the reuse of graves, which they call lairs in Scotland. What was quite interesting was that overall, everybody objected. Notwithstanding that, the Scottish Government passed it anyway. If you are prepared to look at the analysis of cremations for Scotland, you will see that perceptively, cremations went up accordingly.

262. I am raising that because Scotland said, 'You can have the grave for 25 years – not 75, 25. And if you pay some more money you can have it for another 10 years, 35, and it is not heritable'. I am suggesting that if this came up for proper scrutiny, as a proper public general Act before both Houses, lot of these points will be considered, including everything that I said, which was funding. It is ludicrous to think that a local authority can be expected to charge a fee today which will maintain a grave for 75 years. They all say, 'Oh no, it has been worked out appropriately'. I am too cynical at my age to believe that.

263. Also, these cemeteries, once they are full, they create a green lung for the town itself, but nobody wants to pay for it. The local authorities do not want to pay for it. They do not want somebody to say, 'This cemetery is full. We want to convert it into playing fields or a recreation park or whatever'. They don't want to pay for it. It is much better to keep the thing going to finance it and put off that moment when they find they

have got to landscape and maintain a seven or eight-acre plot of land in the middle of the town.

264. In addition, my friend has not produced any of the publicity that led up to this. They have produced a booklet that they hand out to people, which says quite clearly, 'Right at the other end of the new cemetery there is an area for quiet contemplation. There will be no burials here at all'. We do not know the size of the area. All we know is that it is right up against the boundary. They have produced a photograph that shows a long sward of grass with one chair in the middle.

265. If, as they say, land is so acute, shortage of burial space, then that has to come out of the equation. If they say, 'You have all these graves that people never visit', they have not produced any monitoring to that effect. If they are not being used, why do you want the circulatory roads to go to a section that nobody is going to? Use it. One-fifth of that land in the middle of Bishop's Stortford, only 35 minutes away from here, is not being used.

266. If you used that land, add it to the other 5,700 bodies that they can accommodate in land that they own, you are talking accommodation of nearly 8,000 people, without destroying any heritage that may exist. Again, on the point of heritage, we have been told about the Gilbey memorial. Is that what heritage consists of? If you have the money to build a nice marble edifice, you are going to be preserved.

267. However, in the case of my maternal grandfather, Markwell, if you look at the plan showing the cemetery and you look beyond it, he built all those houses. He contributed to the development of the town. If you speak to some of my cousins, perhaps he was building in the vernacular, I think is the appropriate way of putting it. But build he did, and he built artisan houses that are now in the centre of the town, which is more than the local authority are doing. On the whole, they are two-up, two-down starter homes in the middle of Bishop's Stortford, and yet he is vulnerable. He is vulnerable now to being disinterred if this Bill goes ahead because he has been there for more than 75 years.

268. THE CHAIR: This is your grandfather.

269. MR CARELESS: My maternal grandfather is a Markwell.

270. THE CHAIR: You have an absolute right to object, so they are not at risk. The only people who are at risk at the moment, so far as I can see, are the three infant children in the separate grave that you have identified. I may be wrong on that. No doubt I will be told I am. But as to all the others, you and other current members of your family are lineal descendants who have a right of absolute veto.

271. MR CARELESS: It does not preserve the grave in perpetuity if I veto it. This is the problem. The wording in the Act is that if it goes through they can't touch graves unless the body has been there for 75 years. They can serve notice. I can object. They will then put a stop on it for 25 years, or, as Mr Parker said to me, 'In 25 years' time you can renew it'. I will be 100. I am not likely to be around to renew it.

272. THE CHAIR: I wasn't entirely accurate there. No doubt I will be told that I am wrong, but I think the position is that it depends whether or not the local authority recognises you or one of the other petitioners as the person now entitled to the contractual property right in the original registered owner. They seem to indicate they might do that. If they did that then you would have an absolute right to object to the removal of the grave, so it would never get to the second stage of removing the human remains.

273. However, if that was not the case and you objected, like anybody else, then they could only remove the grave, which is the first stage, with the consent or licence from the Secretary of State. That is the protection at that stage. Presumably representations will to be made to the Secretary of State. At the second stage, as I have said, you have an absolute right of veto in relation to your grandparents' graves, certainly, so far as concerns the removal of human remains and monument. That is the way the Bill works, as I understand it. I hope I have that right.

274. MR LATIF-ARAMESH: If it would be helpful for me to comment, that is correct. The only thing I would add to that is, in the second stage, the objection can be raised by a relative, the definition of which we discussed, but also the registered owner.

275. THE CHAIR: That is the same registered owner point. It depends on what view the local authority takes about who is now entitled to those rights. We do not want *Jarndyce v Jarndyce*.

276. MR CARELESS: My Lord, I did address who is entitled to the rights.

277. THE CHAIR: That is the structure, so I do not think it is right for you to say that your grandfather's remains or grave are completely unprotected. I do not think that is correct.

278. MR CARELESS: At the moment, all my family's graves are protected by the Secretary of State.

279. THE CHAIR: Either the Secretary of State or, if the local authority recognises one or more of you as the inheritor of the original right of burial, you would be protected by that, or as lineal descendants of your grandparents. Carry on.

280. MR CARELESS: I think I am following you, my Lord.

281. THE CHAIR: It is complicated.

282. MR CARELESS: It is very complicated. As regards the original burial grant, as far as I was concerned, the actual date of death has something to do with it. My great-grandfather died in 1920. At that point this burial grant was regarded as personal to him and passed by delivery. It was not until after the passing of the Administration of Estates Act 1925 that I think it became more formal. It passed by delivery, and I am not a registered owner of any of the graves. I am simply a lineal descendant.

283. THE CHAIR: You are not claiming to have that inherited right.

284. MR CARELESS: I have. If necessary I brought with me the line of probate to show the descent.

285. THE CHAIR: You are arguing not just for yourself but for the wider interest.

286. MR CARELESS: Yes, for the wider interest insofar as my objective here today is to try and persuade you not to pass this Bill, in which case the status quo will remain. They can do whatever they like in the consecrated part of the cemetery, because that is nothing to do with me as my family are in the unconsecrated section. They have a faculty that covers 3,100 graves in the consecrated section, 124 of which are graves in perpetuity. They have said that they intend to seek another faculty to pick up on the missing bit of the consecrated land in the old cemetery. It has been very difficult. I

referred you to several cases that I obtained from the Law Society. That was quite difficult because they were all working from home.

287. THE CHAIR: Was it about expedient?

288. MR CARELESS: Yes. They were all working from home. I had a similar problem with the Herts record office insofar as access was denied because of Covid restrictions. But they did run a search and they could not find another sentence for the new cemetery. So I have no idea what proportion of the new cemetery – which I emphasise was not created under the Burial Acts, which required it. They were not able to tell me which part of the new cemetery was consecrated and not consecrated.

289. Come what may, from my experience of having worked in local government and having dealt with the legal issues involved, this is a case of the tail wagging the dog. The whole emphasis here should be, if you want to go down this route, if the Committee has its own private opinion that reuse is appropriate, then rely on the Law Commission. The 13th Law Commission had a whole raft of things to do. They have simply stuck their head above the parapet because they are aware of two Acts of Parliament going through at the moment, this one, which you are considering, and also most probably a different scrutinising committee will be looking at the Act by Baroness Hussein-Ece.

290. THE CHAIR: Have you had any discussion with the Law Commission?

291. MR CARELESS: Yes, I did. I made sure I was up to date before I came to see you.

292. THE CHAIR: Have they started work on their report?

293. MR CARELESS: Not on their report. They are still agreeing the terms of reference with the Secretary of State for Justice. They seemed to be quite active when they gave me the up-to-date position when I phoned them. I phoned them deliberately to find out that it was not kicked into the long grass and they were actually dealing with it, and they are actually dealing with it. In which case those recommendations will most probably pick up on the evidence today, and also the evidence that I have been able to ascertain was ascertained by Harriet Harman.

294. As you saw in your briefing paper, the Labour Government thought it was a good

idea. They were all keen to go ahead and create legislation. Then it fell by the wayside, with Lord Bach actually coming to the House and saying, ‘Actually, we do not have a consensus here’ and therefore they were leaving it. The Government did not feel that there was enough demand nationally to deal with it at pace – the now fashionable word ‘at pace’.

295. THE CHAIR: All right. Anything else you would like to cover today? I want to be certain that you are comfortable that you have made all the points you want to.

296. MR CARELESS: You have been most kind to listen to me. If you have read the statement I put in, I have elaborated on a few points. I have personalised it as opposed to

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297. THE CHAIR: Yes, you have been very helpful. It has been very helpful, and we are extremely grateful for what you have to say. I am going to ask members of the Committee whether they have any questions they would like to put to you at this point.

298. BARONESS THORNHILL: What I would like to understand is what the council believes is the position of the Careless graves.

299. THE CHAIR: There will be a reply.

300. BARONESS THORNHILL: Is there opportunity for that, because that would help?

301. THE CHAIR: There will be an opportunity because we will move to the council in a minute for its reply. But I wondered whether anybody wanted to ask any questions of Mr Careless.

302. BARONESS WILLIS OF SUMMERTOWN: I am getting very muddled about numbers of graves and how many in this additional area of land, the two areas you have identified. What number of additional graves would that come to? When we talk about sustainability, which was the other point being made, how many years would that allow burials to go ahead before we hit the problem again?

303. MR CARELESS: Using the Government’s yardstick, I calculated that to have enough room with this virgin land, without even taking into account the unused land in

the new cemetery, or even the land that they bought in 2021 from the council – we do not know anything about that – just using those two bits, the amount of burials that they could accommodate was 5,700. They are looking at 25 burials a year, so it is not an urgent thing. That is without using any of the pathways in the old cemetery if they wanted to.

304. LORD REAY: Could you expand on a point that you made in your written submission? I think you touched upon it earlier. You believe that the old cemetery and the new cemetery should make use of the pathways as space.

305. MR CARELESS: Yes.

306. LORD REAY: Could you talk a bit about that and whether you think that is normal and that a lot of the other cemeteries do that type of thing?

307. MR CARELESS: The best thing to do is to refer you to some of the evidence that this House heard from the Highgate Cemetery. If I can find it I will tell you. Basically, other cemeteries are doing it. I will quote it to you chapter and verse if you are patient with me. If I cannot then I will just have to tell you about it. Here we are. I will have to paraphrase it. The principal witness in the Highgate Act said, ‘Everybody is doing it. All the London cemeteries are doing it’. That is municipal and private cemeteries.

308. When Julie Rugg reported on the use of land in London, she found that although you are being referred to these London cemeteries, most of them were using areas that had not previously been designated for burials: pathways; they are pulling down buildings, old greenhouses. She found that the majority of them were doing that. The Highgate evidence confirmed this. The paragraph is 36 but I cannot put my hand on it at the moment. The trouble is when you are trying to find something quickly you can never find it.

309. Julie Rugg mentioned the fact that most of the London cemeteries were open. Three-quarters were still accepting burials and they were utilising things. They were not utilising any of the powers set out in the public Acts that affects municipal cemeteries in London at all. I’m sorry to pause.

310. THE CHAIR: It is 12.55 now.

311. MR CARELESS: Yes. You are helping me out here, my Lord.

312. THE CHAIR: Why don't we stop five minutes earlier and start five minutes earlier?

313. MR CARELESS: I have found it. I can read it now. The London Local Authorities Act 2007, no London borough council has adopted this power at all. They were not pursuing reclamation. In the interview with the *ITN News* she went on to say that the London cemetery has hundreds of graves being reused. That is not true. In 14 years they only used 1,000 graves.

314. During that same period between 600,000 and 700,000 people died in London, yet the reuse of the power, which has been shown to you as being a precedent, has a very limited uptake. The majority of these cemeteries are not using that power, but they are using circulatory systems. Even the legislation that allowed them to reclaim back graves, reclamation is an alternative where you do not disinter people. You find a grave that has just one interment in it, and you plonk another one on top.

315. LORD REAY: Can I ask you another question? Going back to the trees again, is it your contention that the self-seeding trees that appear to have materialised are due to lack of care and maintenance at the cemetery?

316. MR CARELESS: Absolutely, there is no doubt about that. The photograph that I have included in my bundle showed that where my family are concerned you have got vast savannahs of grassland. There is no tree in there but the trees that you do see are horrible, stunted things, which really should have been managed. If you want to make a lawn cemetery, at least actually improve them, replant them, replace them. You don't let them just grow. Every cemetery has its invasive species and trees are no different. If you have an elderflower in a cemetery, before you know it you have elderflower trees everywhere.

317. VISCOUNT STANSGATE: Can I ask one question to be sure that I understand? When you say that in your view Bishop's Stortford has got enough space for 5,700 graves, that is on the basis that pathways could be used.

318. MR CARELESS: No, that is without the pathways being used. It is a bit

exaggerated. 1,222 graves could be added onto that, but that would involve the whole area of the circulatory system in the old cemetery. That was just designed to show you the amount of land, the amount of burial space that the circulatory systems absorb. If you only used half of it and say, 'People do not go there anymore' it is still over 500 graves.

319. I cannot administer, as an ex-local, what they do. All I can do is say, 'You have land here, you have land there, you have land here that you are not using. You have a space over here for quiet contemplation. Put it all together. Why do you want to dig up my family?' That is all I can say.

320. THE CHAIR: Anybody else have any other questions? No. All right, very good. Thank you very much. That does take us to about 1.00. We will adjourn this session until 2.00 and then we will hear the promoters in reply on the points of principle.

321. One thing I should say, to that make it clear for the transcript, is that we are reading Mr Careless's written submissions into the transcript as if he had read them out. I want to be clear that they are to be treated as having been before us in a formal sense, and as if he had spoken to them, for future reference, so that they be treated as having been properly accepted as part of your case. If you would like to leave now.