

HOUSE OF COMMONS  
ORAL EVIDENCE  
taken before the  
UNOPPOSED BILL COMMITTEE  
on the  
NEW SOUTHGATE CEMETERY BILL [*LORDS*]

Tuesday 24 January 2017

Before:

Mr Lindsay Hoyle MP (Chair)

Damian Collins MP

Stephen Hammond MP

Imran Hussain MP

**MR NICHOLAS EVANS** of Bircham Dyson Bell appeared as Parliamentary Agent

**MR RICHARD EVANS**, Managing Director of New Southgate Cemetery and Crematorium Ltd appeared as Promoter

**MR PETER MITCHELL**, Independent Consultant on Burial, Cremation and Exhumation

**PAM THOMPSON**, Principal Parliamentary Clerk, Bircham Dyson Bell

**MR DANIEL GREENBERG**, Counsel for Domestic Legislation, was also in attendance

Ordered at 2.04 pm: that Counsel and Parties be called in.

1. **CHAIR:** Mr Evans, may I invite you to introduce your colleagues and then to address the Committee?
2. **NICHOLAS EVANS:** Good afternoon, Sir. I am Nicholas Evans of Bircham Dyson Bell, Parliamentary Agent for New Southgate Cemetery and Crematorium Ltd, who are the promoters of the New Southgate Cemetery Bill. To my right is Richard Evans—no relation that we know of—who is the managing director of New Southgate. To my left is Peter Mitchell, also no relation, who is an independent burial consultant and will answer questions of that sort of technical nature. To my far left is Pam Thompson, who is the Principal Parliamentary Clerk at Bircham Dyson Bell.
3. **CHAIR:** Excellent. Do you want to lead off, Mr Evans?
4. **NICHOLAS EVANS:** Absolutely. I understand that Mrs Thompson may have passed to your Clerk the plan that we have, which may help to illustrate the lay-out of the cemetery.
5. The Bill is being promoted by New Southgate Cemetery and Crematorium Ltd, who are the owners of this cemetery. They are part of the Westerleigh Group, which are the operators of around 40 cemeteries and crematoria around the UK. The Bill relates to the New Southgate Cemetery, which was established in 1856. It was originally promoted by the Great Northern Railway as an alternative to the better known London Necropolis Railway, which ran down to Brookwood in Surrey. Apparently, that distance was too far from London and too expensive, so they thought that they could make some money from having a cheaper alternative closer into town. The Great Northern London Cemetery Company Act 1855 gave them powers to establish the cemetery. In line with the rail-related nature of the business, they gave different prices for first, second and third-class burials, which we do not have any more.
6. The cemetery railway service started in around 1861, but it does not seem to have caught on, and it closed by about 1873. There were further Acts in the 1870s and 1890s allowing the company to sell off land that had been become surplus. There was an Act in 1953 to allow the construction of a crematorium, and Acts in 1961 and 1968 to allow the disposal of further land.
7. In 1976, the ownership and management of the cemetery was transferred to the New Southgate Cemetery and Crematorium Ltd, the promoters of the Bill. They were not the party that was selling off the surplus land beforehand, but the party that ultimately bought the rest of the cemetery from its original owners.
8. The cemetery now occupies land on the eastern side of Brunswick Park Road, and it is shown on the map as the area edged in red. It is approximately 60 acres in size and is laid out in a circular fashion. You can see the different segments, which are dedicated to different faiths: there

is a Roman Catholic section, a Greek Orthodox section and those for the Caribbean communities.

9. The cemetery is of particular interest to the Commonwealth War Graves Commission; it has the war graves of around 110 Commonwealth service personnel and also those of two Belgian soldiers and 51 German prisoners from the Alexandra Palace internment camp. There are also 86 Commonwealth war graves from world war two.
10. Under the New Southgate Cemetery and Crematorium Limited Act 1990, ownership of part of the cemetery was transferred to the National Spiritual Assembly of the Bahá'ís of the United Kingdom. That is the section shown hashed in blue towards the bottom of the plan. This section is of particular cultural importance to the Bahá'ís as their spiritual leader, Shoghi Effendi, was buried there. He was the guardian of the Bahá'í faith, and died on a visit to London in 1957, and so in accordance with the custom of the Bahá'ís, he was buried near the place of his death. That has made the location in the cemetery particularly significant for them. Under the terms of the 1990 Act, the Bahá'ís have essentially the same powers and responsibilities for maintenance of that portion of the cemetery as the New Southgate company has for the remainder of it.
11. In total, there are 40,796 graves in the cemetery company's section, and 3,613 in the Bahá'ís'. In total, around 118,000 interments have taken place in the 160 years that the cemetery has been open.
12. The Bill is promoted by the New Southgate Cemetery and Crematorium Ltd company alone, but it would confer powers both on it and on the Bahá'ís, and the appropriate resolutions were passed by the cemetery company, as the promoter, on 4 December 2015, and by the National Spiritual Assembly of the Bahá'ís, as a non-promoter receiving powers under a Private Bill, on 12 December that year. While it is only the New Southgate Cemetery Company that is promoting the Bill, so only Mr Evans, who will be approving the preamble later on, the New Southgate Cemetery Company has taken an active interest in the Bahá'í section of the cemetery, so if you do have any questions about that section as well, Mr Evans will be able to answer questions about the whole cemetery.
13. Perhaps it is helpful for me to summarise where the Bill has got to so far, before talking about why we think that there is a need for it. It was deposited in November 2015 and introduced into the House of Lords in the subsequent January 2016. It passed through all its stages in that House, and was introduced into the Commons on 13 October last year. On 29 November, the Bill had its Second Reading debate on the Floor of the House. No petitions have been deposited against it in the Lords or in this House.
14. Turning to the need for the Bill, as I noted earlier there are about 180,000 interments in the cemetery. That means that only approximately 1,700 places are now left in the New Southgate section and about 75 to 100 in the Bahá'í section. While demand for burials fluctuates from year to year, it is a business that will never go out of business—people will always need

to find a place for interment of bodies. Each year there are around 175 funerals in the New Southgate section and around 10 Bahá'í funerals, so with 1,700 divided by 170 and 100 divided by 10, we are going to run out of space in about 10 years' time.

15. **CHAIR:** For clarification, are those completely new graves, or topping up old graves?
16. **RICHARD EVANS:** New graves.
17. **CHAIR:** Just new graves. So there is actually more capacity if families want to come forward to the older graves.
18. **RICHARD EVANS:** You obviously have a stock of graves which were dug for multiple interments, usually dug for two—husband and wife—so there will be spaces left. If we carry out 175 new graves a year, you would expect a similar number of reopeners, as we call them, a year. Those are typically the second interment in that grave.
19. **CHAIR:** So what is the capacity?
20. **RICHARD EVANS:** You have capacity for some time for people who are returning for a second burial, but for anyone who does not have an existing grave there, that is where the demand of 175 a year comes from.
21. **CHAIR:** Do you know what the existing capacity is that has not been used yet? Top-up graves, if you want to put it that way.
22. **RICHARD EVANS:** You could go back; you have got graves from 1856, and that is part of what we are asking for—we have talked about reclaiming spaces and reusing spaces. So the capacity you are talking about will still be several thousand-plus, but you will not be able to be buried with your wife in those cases because in the vast majority you are talking about space for only one.
23. **CHAIR:** Some will be family plots, of four maybe.
24. **RICHARD EVANS:** On a few occasions. The vast majority are dug for two, because that is a husband-and-wife plot.
25. **CHAIR:** That was the nature of them.
26. **RICHARD EVANS:** Yes, and for whatever reason the second person has not been buried in that plot.
27. **CHAIR:** When we say "husband and wife", it does not necessarily follow, because it is in effect that someone will have inherited the right to put someone in there.
28. **NICHOLAS EVANS:** Potentially yes. The space will be sufficient for two.
29. **CHAIR:** For two, whoever that person may be, as long as they can show that they actually have the right to be buried there.

30. **RICHARD EVANS:** The grave owner, yes.
31. **NICHOLAS EVANS:** So that is where we think the demand will be going in future and the capacity that we have. The company anticipates running out of space for burial in the near future. It has tried to address the issue by acquiring additional land, but if you look to the plan there is not a great deal of space around. The only additional available space is to the north and that is recreational land, and the local authority has objected in principle to the sale of that land.
32. **CHAIR:** What about that strip down towards Marshalls Close?
33. **RICHARD EVANS:** The green area here?
34. **CHAIR:** Like a field, yes.
35. **RICHARD EVANS:** That is actually recreational land owned by the London Borough of Barnet.
36. **CHAIR:** So it is actually in use.
37. **RICHARD EVANS:** Yes. If it helps, this area just here is also a park—that is a recreational area. London Borough of Barnet has ruled out any development—
38. **CHAIR:** Sorry, no, it was the green strip—Marshalls Close.
39. **RICHARD EVANS:** This bit here?
40. **CHAIR:** Yes.
41. **RICHARD EVANS:** That is a wood; again, it is owned by Barnet and deemed to be recreational land. They have a policy against development of any of these pieces that surround us.
42. **CHAIR:** “Development” meaning development of housing, or do they accept—
43. **RICHARD EVANS:** Of any other use. I think Barnet sees itself as a borough that is not well served—
44. **CHAIR:** Basically it has been asked whether it would be willing to sell.
45. **RICHARD EVANS:** We have written to Barnet, and they said that they were not prepared to consider any alternative use for the recreational area.
46. **CHAIR:** Other than the wooded area.
47. **RICHARD EVANS:** Yes.
48. **NICHOLAS EVANS:** So essentially we have asked and been told no. So as an alternative solution, we have put forward the Bill to allow both New Southgate Cemetery and the Bahá’ís to reuse areas of the cemetery where burials have not taken place for 75 years or more. It does that in

two ways: by extinguishing existing rights of burial and by reclaiming graves that have not been used for 75 years. That enables existing space in graves to be used for new burials. In these cases, the grave would have originally been dug for a number of eventual burials, as we discussed a few moments ago, but those burials did not ultimately take place. If those existing exclusive rights of burial were extinguished, the remaining burial space could be used for new burials.

49. The second way in which the Bill would achieve additional capacity would be by granting the ability to reuse graves where a burial has not taken place for 75 years or more. It is a fairly sensitive subject. The method that is used to create this extra space is known as "lift and deepen". The graves are excavated to their deepest depth and any of the remains that are already there are placed in a casket and reinterred at the bottom of that deeper grave, creating additional space above.
50. **CHAIR:** Just to help me: at what level would you expect a grave to be buried at the moment and at what level do you expect the reburial to be?
51. **RICHARD EVANS:** Typically when you dig a grave for two, it is approaching seven feet, so when you are talking about "lift and deepen", which is the method in previous legislation, you would gather those remains reverently and bury to a depth of say 10 feet.
52. **CHAIR:** Is that all?
53. **RICHARD EVANS:** Yes. If you think about the seven feet, you have two coffins placed on top of each other and a minimum of two feet from the surface so, with what would be very scant remains, having a gap of three feet is way beyond what you would normally have in a cemetery in any case. The gap between two coffins is normally a matter of inches.
54. **CHAIR:** Just to go into it a little more: why are we going for only two? Could you not create family graves if you took them deeper?
55. **RICHARD EVANS:** Yes, you could.
56. **CHAIR:** Which would give you a greater capacity, if that was what the Committee were to decide.
57. **RICHARD EVANS:** Absolutely, yes, you could. I think what we are saying is that the cemetery will be sustainable in any case because the number of graves, based on 75 years since their last use, then being generated exceeds current demand. You will also create probably some 10,000 plots immediately. You could certainly bury beyond two depths; it is very rare for people to do that but we can certainly still do it. If you have the death of a child, for instance, it would often be dug for three. So we would still have that option.
58. **NICHOLAS EVANS:** By creating additional space in this way, the company and the Bahá'ís would be able to create, as Mr Evans said, approximately 10,000 spaces immediately from the graves that are of sufficient age, and that is enough space for about an additional 50 years

of burials. In addition, through the passage of time it is estimated that another 5,000 spaces would become available each decade. That is another 25 years or so of demand becoming available each decade. That would ensure the long-term viability of the cemetery.

59. Why are parliamentary powers needed for this? In the case of reclaiming the unused space in existing graves, when a grave is purchased the buyer generally has an exclusive right of burial for that grave space granted by the burial authority. Those rights are usually granted for a period not exceeding 100 years. The effect of purchasing such a right is that the grave may not be opened and no one may be buried in there without the owner of the right's permission. However, in a number of cases—in many cases here—it is now no longer possible to identify or locate the people who own those existing exclusive rights in order to extinguish them by agreement.
60. The New Southgate Cemetery company has written to all the grave owners within the older sections of the cemetery in the course of the last 10 years to see whether we could achieve the aims of the Bill by agreement, but in many cases the grave owner is no longer alive or has not updated their contact details, and the overall response rate to the letters has been less than 1%, with the vast majority being returned by Royal Mail as "undeliverable". That is probably unsurprising, because the cemetery has been open since 1856 and many of the families connected with the graves have long since moved from the area.
61. The Bill would provide an ability to extinguish these rights after giving notice. It is based on a power that is available to municipal burial authorities in London under the Greater London Council (General Powers) Act 1976, and there are slightly different versions of those powers in force in the City and in Southwark.
62. The Bill would require the burial authority—that is New Southgate Cemetery company or the Bahá'ís—to give six months' notice of its proposals to extinguish the rights of burial in a particular grave. If the registered owner objects, that is it; those rights cannot be extinguished. If anyone else objects, the rights cannot be extinguished unless the Secretary of State consents to that. That is reclaiming the space.
63. As far as reusing the space is concerned, section 25 of the Burial Act 1857 makes it an offence to remove buried human remains without a licence from the Ministry of Justice or, in relation to consecrated ground, a faculty from the Church of England. We could theoretically go through that licensing process, but not sufficiently quickly. That works on an individual, case-by-case basis, but it would not create enough space to make the cemetery sustainable. It would not be able to deal with that sort of need—the need to deal with hundreds of graves at once.
64. Again, this is an issue that has been grappled with by municipal burial authorities in London, and section 74 of the London Local Authorities Act 2007 gave London boroughs permission to reuse burial space. Clause 4 of this Bill is essentially based on that. It is only exercisable in relation to

graves where the rights have already been extinguished under clause 3, or where that grave is a public or common grave, which is a grave where there were no exclusive rights in the first place. Again, there is a notification process, and again, if the registered owner or a relative of the person who is interred in that grave objects, the powers cannot be exercised for at least 25 years. Exercising that power—giving those notices and giving people the opportunity to object—gives us a process for creating that additional space that the cemetery company and the Bahá'ís need.

65. **CHAIR:** Just to clarify that so I have it right, what you are saying is that if someone does object, you accept that objection for 25 years, and then you just waive their objection after 25 years.

66. **NICHOLAS EVANS:** We would have to go through the process again.

67. **CHAIR:** So they could object again.

68. **NICHOLAS EVANS:** Yes.

69. **CHAIR:** And they could uphold another 25 years.

70. **NICHOLAS EVANS:** Potentially, yes.

71. **IMRAN HUSSAIN:** On that point, how will family or friends or any interested party likely to object know about it? Will you write to them directly?

72. **NICHOLAS EVANS:** That's right. We have to serve notice on the registered owners of the right of burial, and we also have to serve notice on the Commonwealth War Graves Commission and Historic England, because they have taken an interest. We would also have to display notices at the cemetery, and we would have to publish notices in local newspapers. So we would publicise it and send notices directly.

73. **CHAIR:** We will come back to that in a bit more depth, if that is all right.

74. **NICHOLAS EVANS:** As I say, this is a power that is available to municipal burial authorities in London. It is actually a power that both the last Labour Government and the coalition Government considered introducing more widely and put forward White Papers on, but both concluded that the need to reuse graves across the country as a whole was not critical, so it was not taken forward. But London local authorities felt the need was critical in London, so Parliament passed the 2007 Act, and the Promoters of this Bill say the need is critical in their cemetery, which is why they have brought forward this Bill and are seeking these powers.

75. We say that the need is critical primarily because the community served by New Southgate cemetery and the Bahá'ís do not choose cremation. For the Greek Cypriots, it is not allowed, as I understand it; in Caribbean communities, burial is the preference of 99%; and it is the strong preference of the Roman Catholics served by this cemetery as well. All those communities are very heavily represented in the parts of north

London served by this cemetery. As the cemetery cannot expand, the only way it can create more space is by using the existing graves more intensively.

76. We are also encouraged that, while the treatment of the deceased is a sensitive matter, the City of London Cemetery in Newham has been making use of its equivalent powers to reclaim and lift and deepen to become sustainable. That does not seem to have created a particular adverse reaction.

77. **CHAIR:** Just out of interest, do you put the gravestone on top of a grave before you put burials above it as a way of marking it? If somebody owns a stone that says, "Remains of Margaret Smith" or "The dear beloved husband of", that is the marker to that grave. When you are dropping them down, do you put the gravestone down with them on top?

78. **RICHARD EVANS:** I think that is a useful way. There are two methods: you either place the headstone part or all of the memorial parts, because the key bit is really the inscription and the marks on the headstone, on top of those remains that are reburied, which would serve as a cap or a marker. In that way, when you come back to dig the grave, you should not be at that depth in any case—

79. **CHAIR:** It would be a warning: "Don't go any lower"?

80. **RICHARD EVANS:** Absolutely. It would be the safety or shelf. Alternatively, you could have the headstones on the top as a marker, but I think the most sensible approach would be to lay them down in the grave so they are buried with the remains.

81. **CHAIR:** So that's not been decided yet?

82. **RICHARD EVANS:** We're happy to do it that way.

83. **NICHOLAS EVANS:** Again, if we were to remove any memorials—or propose to remove any, including headstones and gravestones—that is something we would have to give notice of beforehand. We would then get the views of those who are interested in those particular memorials.

84. **CHAIR:** It is a concern what would happen to them.

85. **DAMIAN COLLINS:** If there were objections to gravestones being removed and buried, is there the opportunity to place them somewhere else in the cemetery—at the perimeter, or some other place where the inscriptions could be seen?

86. **RICHARD EVANS:** Absolutely. You see that in churchyards, actually, where headstones have been moved back to form, effectively, a decorative wall—normally against the church wall. The church is then left with a grassland; an open area. That is another possibility.

87. It depends partly on the condition of the stones. 19th-century memorials were made from English natural stone, which is much more porous and

weathered, of course, given the life they have had, so you ought to take the safety and stability of those stones into account at the same time. If they are tall headstones and they are leaning against a wall, you ought to be sure, first of all, that they are going to be in good condition with legible inscriptions, and also that they are in a safe condition for visitors coming back. That is why I said there might be some variation in the way we treat the headstones.

88.**CHAIR:** Basically, you won't be putting them on the open market as stone?

89.**RICHARD EVANS:** No.

90.**CHAIR:** That has happened in other cemeteries.

91.**RICHARD EVANS:** No, no, absolutely not. If they were of a poor condition and had no legible inscription, they could be reused for paths in the cemetery, for instance, but I think the idea of actually having the solid piece of the headstone as a cap that stays with those remains that are reburied is the most appealing and practical use.

92.**NICHOLAS EVANS:** Again, where we can identify the people who have the rights to their headstones, they are one of the classes of people who have to be notified. Potentially, under the Bill, if they object, that is when there would be a 25-year cessation of the power.

93.**CHAIR:** I am very interested in that bit. I know that, in the north-west, graveyards in cities have suddenly been closed and the bodies moved, but the headstones have been sold on and the stones suddenly appeared. In fact, there was a motorway bridge that recently came to be renovated, and on the back of what was meant to be natural stone were people's names, so I know that has happened. There was one more recently in Lancashire where the stone had been sold off again. Can we have that as an undertaking—that no stone will be removed from the site and it will all be retained?

94.**RICHARD EVANS:** I give my absolute assurance that in no way will any stone be removed for any commercial benefit whatsoever. The memorials will stay within that cemetery. We record all the memorials; we will have a database so we can preserve inscriptions, because that is important. I am absolutely happy to give that undertaking.

95.**CHAIR:** With the exception of—we will come on to this a little bit more—if somebody such as the Commonwealth War Graves Commission wanted to move them, that would be acceptable.

96.**RICHARD EVANS:** Absolutely.

97.**NICHOLAS EVANS:** Perhaps it is helpful to run through the consultation that was carried out before the Bill was deposited. We consulted cemetery users, the local authorities, the local MPs and the religious orders that make most use of the cemetery, as well as the Commonwealth War Graves Commission. In particular, we also consulted the Bahá'ís, who

indicated that they too felt the need for similar powers as they are under similar pressure as to numbers.

98. All the institutional respondents were supportive of the principles of the Bill. The Commonwealth War Graves Commission sought clarity about its protections. The Bill makes specific provisions for this. After the Bill was deposited, Historic England requested similar protections as well, so the Bill also includes provisions for those.
99. There were a couple of individual respondents who asked for confirmation of how the Bill's proposal would affect graves for which they had a particular concern, or sought more general clarity about the processes. We responded to those in person and did not receive any petitions as a response.
100. If you wish, I can run through each of the clauses in turn in more detail, or perhaps you have particular questions now that you have the context.
101. **CHAIR:** We have a list of questions we want to pose to you. If colleagues are happy, we will proceed to questions. I will run through the questions and you can join in at any stage. That is probably the best way.
102. I think you have covered a couple of the questions. Can the agent confirm that these are the minimum changes required to permit the new burial practices? Then I just want to broaden that out.
103. **NICHOLAS EVANS:** Yes, I can. We simply require the ability to extinguish the rights of burials so that we can reclaim ground, and the powers to disturb human remains so we can reuse.
104. **CHAIR:** Obviously, as you have suggested, this is a very old cemetery in parts. Have you done an impact study on wildlife and fauna?
105. **RICHARD EVANS:** We have not done an impact study. It is a working cemetery.
106. **CHAIR:** But as you have said, most of it is not working. That is why you have come to us.
107. **RICHARD EVANS:** Yes, that is true, but it is still maintained. We still have a regular maintenance system. We are strimming back grass every two weeks in the season. It is fair to say that we have trees and we have birds, but it is not a place you could describe as a nature reserve. In terms of the trees, you could say that it is an important landscape for birds, but beyond that it is still a working cemetery, which is regularly maintained.
108. **NICHOLAS EVANS:** It has not been left for 30 years to grow and have the additional wildlife that would come there naturally.
109. **CHAIR:** Without a study we wouldn't know that.

110. **NICHOLAS EVANS:** There is a presumption based on the regular maintenance and regular activity that takes place.
111. **CHAIR:** I recall that the cemeteries up and down the country are one of the greatest wildlife habitats that we have, because lots of it is untouched, including where the gravestones are themselves. I just pose that question.
112. **RICHARD EVANS:** Where it is overgrown I would agree, but we would not characterise New Southgate in any way as overgrown. We have a very high standard of maintenance, even in sections that may not be regularly used and in the appearance of the cemetery throughout, because you would drive to newer sections through older sections. We have a consistent and equal level of maintenance across all. Truthfully, I don't think it would be fair to put New Southgate in the same bracket as maybe some of the churchyard or cemeteries that you have seen.
113. We are still obviously bound by the environmental Acts that protect wildlife. I would not expect that we would cause any harm, because current practice is not going to especially change. We are still going to be maintaining, still going to be cutting grass, we are still going to be digging graves, we are still going to have thousands of visitors from week to week. The difference would be that, while some new sections close, we will be opening new sections in other parts of the cemetery. The level of activity will remain pretty similar, but instead of it ending in 10 years' time, we are talking about it surviving forever.
114. **IMRAN HUSSAIN:** On that point, would you accept that it is impossible for you to say absolutely? Cutting the grass or whatever does not necessarily mean that there is not wildlife or various other things there. For a definitive answer, you would need an impact assessment. Would you accept that?
115. **NICHOLAS EVANS:** I think that is fair and—
116. **CHAIR:** Would you do it? That is the question. Would you do a study?
117. **RICHARD EVANS:** Yes.
118. **CHAIR:** So we can take that as an undertaking that you will carry out an impact study of wildlife and fauna to make sure that it is protected. It may be that there are certain things you could do to ensure its survival.
119. **NICHOLAS EVANS:** Certainly if we came across any protected species, the Bill would not get us out of any of the obligations that apply. We would still need those—
120. **CHAIR:** But some might not know what the protected species is if you have not done the study. It does help. It is an assistance.
121. **RICHARD EVANS:** We would be mindful at the same time that for the majority of people there are choices, because woodland burial is

already available, so for people who want a different level of appearance—something more natural or more rustic—those options exist. In my experience, and for those people visiting New Southgate, I know what they want. They want clean, tidy, formal, well maintained cemeteries. My point is that we ought to ensure that their need carries the greatest weight and that there is not an overbearing responsibility on us instead to create a place for natural wildlife. We want to remain, and it is crucial we remain, an operational cemetery.

122. **CHAIR:** Absolutely, but you have given us that confirmation that you will do the study. That is great.

123. **RICHARD EVANS** *indicated assent.*

124. **CHAIR:** A quick question on that point. Regarding the war graves, have you been in touch with the War Graves Commission?

125. **RICHARD EVANS:** Absolutely. Yes.

126. **CHAIR:** My understanding is that there was an idea to try to bring war graves together at some point and maybe move them. I do not know whether that conversation has taken place or whether they are happy for them to remain and be maintained. Obviously they are maintained by the War Graves Commission and that will continue. So you are not even considering—

127. **RICHARD EVANS:** No. We referred to their involvement, which Nick can probably explain, but the practice of it stands.

128. **NICHOLAS EVANS:** None of these powers under the Bill could be exercised in relation to war graves.

129. 2.37 pm

130. *Sitting suspended for a Division in the House.*

131. 2.49 pm

132. *On resuming—*

133. **CHAIR:** May I move on to a slightly different area, if we are happy to?

134. **NICHOLAS EVANS:** Sorry, but did you want an answer about the war graves?

135. **CHAIR:** Yes, please.

136. **RICHARD EVANS:** Currently, there is a register across all cemeteries that the Commonwealth War Graves Commission keeps. There is a register for New Southgate, and you are right: the Commonwealth War Graves Commission tends New Southgate and maintains those headstones. Some of them are the traditional style; others are within a unique memorial, but are still maintained. There are no plans, as I said, to

disturb those graves. They will be maintained in the same way. The Commission has been fully consulted.

137. **CHAIR:** And the Commission has kept them up to standard? The headstones are up to standard?
138. **RICHARD EVANS:** Absolutely, yes.
139. **CHAIR:** And if they were beginning to deteriorate, obviously you would let them know in order to have them—
140. **RICHARD EVANS:** They personally attend and visit all Commonwealth war graves.
141. **CHAIR:** And what is the number of war graves? Can you just remind me?
142. **RICHARD EVANS:** I think it is a couple of hundred.
143. **CHAIR:** So it is quite an important war grave area.
144. **RICHARD EVANS:** Yes. Although it is over 60 acres, so—
145. **CHAIR:** It is all relative.
146. **RICHARD EVANS:** Absolutely, yes.
147. **NICHOLAS EVANS:** On the subject of numbers, I am reminded that I got a bit carried away earlier. Apparently, reclaiming the spaces will create 2,000 spaces per decade, not 5,000 as I said, but the point is that it is still more than are required per decade, so it would become sustainable.
148. **CHAIR:** Out of interest, is the requirement a declining number each year?
149. **RICHARD EVANS:** No. Nationally, you are seeing an increase in preference for cremation, but London is different, because of the more mixed nature here. We have Greek Cypriots, who choose burial; Roman Catholics predominantly do; West Indian; and you have also got a growing Islamic community in London, which is certainly increasing the preference for burial.
150. **CHAIR:** So you actually may see an increase rather than a decrease in London.
151. **RICHARD EVANS:** You may do, yes.
152. **CHAIR:** Can the promoters confirm that the community effect of clause 3(1) and (2) is that the new private grave rights granted after the coming into force of the Bill will not fall to be extinguished under the Bill, and that any limitations or restrictions will be achieved through contractual terms of the grant of grave rights?

153. **NICHOLAS EVANS:** That is right. Yes, the powers cannot be exercised for 75 years after the grant, and no new grants will be for more than 75 years.
154. **CHAIR:** Excellent. Can the promoters outline the expected procedure in relation to compensation under clause 3(8)? In particular: how would compensation be assessed, what order of sum is likely to be awarded, what mechanism would be available for the enforcement of an agreement under clause 3(9) and what mechanism would be available for the enforcement of an arbitration award under clause 3(9)?
155. **NICHOLAS EVANS:** Our starting point is that the amount offered as compensation for the extinguishment of right of burial would be the amount it would cost to buy the outstanding right, so if 45 years or so were left on it, the amount that it would cost to buy a right for 45 years. As to enforcement, obviously there would be a statutory obligation to pay that sum. If we cannot agree what the sum is, there is provision for an arbitration award, which would be enforced in the same way as other arbitration awards. The beneficiary could potentially apply for an order of the High Court and have it enforced in the normal way.
156. **CHAIR:** I am trying to get a figure on that. It is all right saying 45 years or whatever is left of 45 years, but how do we know it is 45 years?
157. **NICHOLAS EVANS:** In terms of—what rights do we have here?
158. **RICHARD EVANS:** Currently, a new grave is going to cost something approaching £5,000, so that is the level of compensation that they can expect.
159. **CHAIR:** So if I have got it right, we create the new grave above it, and pay the compensation for extinguishing the rights of the people who own the rights on that, who can expect a compensation level of up to £5,000. Is that right?
160. **NICHOLAS EVANS:** That would be the price today, obviously. The prices may change going forward, depending on—
161. **CHAIR:** Land values in London go up all the time, so people will be investing in this. So that's roughly what it would be. What happens to the money that you don't pay? Who benefits from that, because if you can't trace anybody, somebody's going to make some money? Who makes the money?
162. **RICHARD EVANS:** For reusing the graves? Well, we are a burial authority, so our purpose is to provide spaces—to sell plots—to families who want to choose burial. Now, if you are talking about a 50-year grave, then it's worth breaking it down per year. As I alluded to before, we run this cemetery to the highest standards of maintenance. We don't scrimp in terms of reinvestment in the roads, in the drainage, in the facilities and in the ongoing maintenance. That's a cost that we have to bear. So when you sell grave plots, it is of course a revenue that we then deploy for maintaining that cemetery. So the money would come to us.

163. **CHAIR:** Yes, because in the end you're in it for the money.
164. **RICHARD EVANS:** No. I would never like to characterise it like that, but what you're—
165. **CHAIR:** You might not, but I would. You paid a dividend.
166. **RICHARD EVANS:** I would say that the choice you've got, though, is that in 10 years' time the company would have a 60-acre cemetery where there will still be some revenue coming in, from those reopened graves, for a period, until those graves are again exhausted. You would effectively have the situation that you've probably seen, where cemeteries are more wild and full of fauna and flora, because there now isn't the revenue to maintain those places.
167. You have to have money coming in. It's not in any way a small undertaking to run 60 acres of cemetery to a high standard. Our tree budget is about £100,000 a year. We go through the London Borough of Barnet for our tree works. We have got some splendid trees, but they do involve an awful lot of work to keep them safe, to ensure that it is safe for the visitors, and also we preserve the trees themselves.
168. I am commissioning road replacements of £250,000 this year, because we get heavily trafficked. There is drainage. I mean, with this cold, frosty weather, it's lovely in the sunshine, but I think I've got 20 taps, on yesterday's count, that we need to replace. This isn't cheap. We've got 10 guys working out there, emptying bins, cleaning roads, digging graves, pruning roses, and that's just in the winter.
169. So you're right—we need to take money in. And the reason people choose New Southgate is because of the standards of care that we then offer. If you break it down over the 50 years, it's not actually an expensive amount.
170. However, I wouldn't characterise it as being "in it for the money". When I started, back in 1993, it was just because I enjoyed the job and I was on the bottom rung, and it was a Victorian cemetery that I happened to love working in. We want to keep that going.
171. **CHAIR:** Mr Evans, that's wonderful. That was a great explanation about how you are going to maintain this graveyard, this cemetery. I think that's magnificent. The reason you maintain it is in order to make sure people continue to use it. I understand all that. But my next question is this: as a private company, you paid a dividend. Who did you pay the dividend to? Obviously, it is about making profit, so that the company pays dividends.
172. **RICHARD EVANS:** We don't typically pay a dividend, but we hope that the company runs at a profit. I mean, quite—
173. **CHAIR:** You did provide a dividend last year?

174. **RICHARD EVANS:** No. We don't give dividends back to shareholders.
175. **CHAIR:** It's the group?
176. **RICHARD EVANS:** Yes. It goes back to the group, but Westerleigh Group of course consists of 22 crematoria and a Victorian cemetery at New Southgate. But you're right—
177. **CHAIR:** Is it not for profit then, the group?
178. **RICHARD EVANS:** No. The business model that we support is one that, yes, at the end of the day, we need to make a surplus.
179. **CHAIR:** I understand that; I have no problem with that. I am just trying for clarification, because in the end we've got people here who I feel we've also got to look after. If somebody is going to make money out of somebody because we cannot trace them—in the end, is there a shareholder benefit? You are saying, "Absolutely not. There is no one at the end of the group who takes money out."
180. **RICHARD EVANS:** There is always, of course, shareholder benefit, but my point was that we did not take a dividend out of New Southgate last year, because all funds were used for the development of new crematoriums, many of which are in partnership with local authorities. The point of your question is quite right. We do look to make a surplus to more than cover our costs. We think it is the only sensible, long-term way of running any entity.
181. **CHAIR:** Because you are obviously acquiring graves that nobody can defend, for example, because you cannot trace the ownership, I didn't know whether you had formed some kind of charity to support maybe something local for the graveyard or to support burials of people who may not be able to afford it. I don't know. I am looking to see if you want to put something into the pot.
182. **RICHARD EVANS:** A really important point in this is that with this chronic shortage of supply in London, you have seen grave prices rise. New Southgate has been quite clear—in our public statements on our website, in notices to the public and in our communications to all those consultees, including MPs—that by creating additional space, you can reduce the cost of burial in a way that local authorities have not been able to do of late. I would say that there would be a wider benefit for the bereaved, because they will have more affordable grave spaces.
183. **CHAIR:** Just to say, the pat on the back—I have been trying to nail you down on looking after your shareholders, but I know that on your website you do say that you support local charities.
184. **RICHARD EVANS:** Absolutely, yes. We take our role very seriously.

185. **CHAIR:** All I'm saying is that you'll be doing quite well if this goes through. It is just about remembering those charities that might benefit a little more.
186. **RICHARD EVANS:** I don't think we would ever—
187. **CHAIR:** With £100,000 for your tree surgeons, I think I would employ—
188. **RICHARD EVANS:** As a group, I think our charity donations last year were about £100,000 from Westerleigh. I completely agree. We see ourselves as a community service, but we cannot deny that we are also a private company that makes a profit.
189. **CHAIR:** Okay. Just to push you a little bit more on your compensation, on the statutory obligation to pay agreement, are you saying that it would be enforced as a debt under statute?
190. **NICHOLAS EVANS:** If we had an agreement between ourselves as the burial authority and the person we were compensating, potentially it is enforceable as a contractual debt. If it is an arbitration award, it is enforceable in the same way as other arbitration awards.
191. **CHAIR:** Thank you for that. Just out of interest about letters and chasing people, how many letters did you actually send?
192. **RICHARD EVANS:** This goes back to the later 1990s, when we did a memorial survey, which was common practice in British cemeteries. It did actually reach Parliament for discussion at one stage, but we had to carry out an extensive survey of all our graves. We created a database from that point. The initial mailshot is to every single grave owner. It would have happened over a rolling period. The survey took us some two and a half years. Since then we have written in the past 10 years to owners, advising them of the restoration—we have done some work on the roads and the railings. If you are going back to those oldest graves, the return rate is huge. You only need to look at the index. We have someone with the address, "1 Covent Garden", dating back to 1890 or 1900. You are pretty certain that you are not going to get through to the resident. For people who have updated the records, we have the transfer form and that is attached to the original ledgers and section books and is updated on the database. In the vast majority, with grave owners dating back to the 19th century, we have no formal notification to go—
193. **CHAIR:** Just help me understand, Mr Evans, how you looked into it. If you were to say when you started to come forward with this, you have been at it—what, two or three years?
194. **RICHARD EVANS:** No. In terms of our management of the graves and the letters going out?
195. **CHAIR:** No. You have wanted to come forward with a Bill and you have wanted to do things. It has been ongoing, so I am trying to get a figure. Take the last five years: how many letters have you sent asking

people? Have we asked the direct question of what you are trying to achieve?

196. **RICHARD EVANS:** Yes, we wrote to them initially going back 20 years—
197. **CHAIR:** I mean up to date.
198. **RICHARD EVANS:** Ten years would have been a second wave, trying to get our database up to date and talking about the restoration of the cemetery.
199. **CHAIR:** Not the restoration. About taking the graves over.
200. **RICHARD EVANS:** And in the past five years, about reuse.
201. **CHAIR:** How many letters have you sent about reuse recently to people?
202. **RICHARD EVANS:** Five years ago, we would have written to all those grave owners, and since then there have been notices displayed in the cemetery. The point I am trying to make is that if you write to the same grave owner—
203. **CHAIR:** I am not disputing that. Let me try a different way. You are now going ahead with this and therefore, you will have had to try to contact as many people as possible to say that this is what you are trying to do. “We are trying to take this grave off you. What do you feel about it? And there could be some compensation.” How many letters have you sent explaining that new fact of what you are trying to do?
204. **RICHARD EVANS:** It will have been in the tens of thousands of letters.
205. **CHAIR:** Compared with the number of graves.
206. **RICHARD EVANS:** Yes, it would have been the number of private graves.
207. **CHAIR:** So you wrote to somebody at 1 Covent Garden even though you knew they weren’t there.
208. **RICHARD EVANS:** Yes we did.
209. **CHAIR:** That’s fine. I am just trying to get my head around it.
210. **RICHARD EVANS:** It was exhaustive—absolutely.
211. **CHAIR:** As a follow-up, did you place adverts in newspapers?
212. **RICHARD EVANS:** No. We would have placed notices within the cemetery, because if we actually get the powers, we have to go through this consultation all over again before we carry out any works.

213. **NICHOLAS EVANS:** We did also place in the newspaper adverts that are required when the Bill was put forward.
214. **IMRAN HUSSAIN:** Just on that, the letters went out as part of a consultation, I suspect. Did they make it clear that part of what you were proposing to do could possibly be physically interfering with the grave? Was that made clear?
215. **RICHARD EVANS:** It talked about the reuse of graves and creating a sustainable cemetery.
216. **CHAIR:** Would you consider an advert at some point to make people aware that this has happened? In the *Evening Standard*, or something, just to try and broaden it.
217. **RICHARD EVANS:** Yes.
218. **CHAIR:** Personally, I think that we ought to make sure that if there is somebody out there who may be entitled to it, or who may want to use the grave, we have at least reminded them of their ownership. It helps you as well.
219. **RICHARD EVANS:** Absolutely. It has attracted quite a lot of interest in our sector.
220. **CHAIR:** Excellent.
221. **RICHARD EVANS:** We would be very happy to publicise it in the local press and get more than an advert—maybe an article.
222. **NICHOLAS EVANS:** Sorry, Chair, do you mean in addition to the notices that we will be required to publish locally?
223. **CHAIR:** Yes, because I am not sure how broad that would be compared with, say, the *Evening Standard*. As others will want to follow you, you are pathfinders I suppose—
224. **RICHARD EVANS:** Yes. We'd much rather that someone who had a relationship to that grave saw the notice, came to us and said, "I am not sure what has happened, but actually I am a descendant. Could I become the grave owner?" If we got people who are able to be responsible for their graves, it would make our lives in the cemetery authority that much easier. Of course, if they then want to preserve that grave, they might actually say, "I want to keep that family grave but I quite like the idea of lift and deepen as well." That is actually the tradition beyond England. If you talk about the Mediterranean—you have a family plot, relatives stay there for a certain period, are then buried deeper and you go on top. I think that would be probably the ideal approach. We are very happy to ensure that we can publicise this as widely as possible. We will certainly hope that the newspapers pick it up as a good story.
225. **CHAIR:** Of course. With the consultation on the draft Bill, were many objections expressed? If so, what was the big objection, if any?

226. **NICHOLAS EVANS:** In terms of formal objections?
227. **CHAIR:** Yes.
228. **NICHOLAS EVANS:** None. There were no petitions.
229. **CHAIR:** Nobody?
230. **NICHOLAS EVANS:** Nobody. There were two individuals who queried specific information—one about a grave that they had an interest in, and another who had general concerns about the practice of lift and deepen, but we discussed that and they did not—
231. **CHAIR:** Did you say, “The cheque’s in the post”?
232. **NICHOLAS EVANS:** “The checks and balances are in the Bill”.
233. **CHAIR:** The Parliamentary Under-Secretary of State for Justice wrote to Christopher Chope on 8 December following Second Reading—it was copied to the Promoters and others—expressing an expectation that burial authorities will “continue to ensure that relevant faith and cultural sensitivities are taken into account, and...have due regard to available guidance and best practice, in exercising the powers conferred by the Bill”. What relevant faith and cultural sensitivities have you identified, and what guarantees can be given to the Committee that the Minister’s expectations have been realised? Are you happy to conclude that that has been done?
234. **RICHARD EVANS:** Yes. Sorry—
235. **CHAIR:** All sensitivities and different cultures have been taken into account.
236. **RICHARD EVANS:** Absolutely, yes. We have consulted throughout with this Bill, and we are very—
237. **CHAIR:** And that will continue—the sensitivities and the cultures will be respected?
238. **RICHARD EVANS:** Yes. We can only survive as a cemetery authority if that is the case.
239. **CHAIR:** Imran, you wanted to come in on that, didn’t you?
240. **IMRAN HUSSAIN:** Yes. Clearly, you have a number of faith communities that use the cemetery. I am not an expert, but I suspect there will be differences from faith to faith. Some faiths clearly would not allow for physical interference with graves or deeper digging and the removal of graves. What steps will you take to address that? I come from the Muslim faith, and I know that within that faith, that certainly would not be allowed. How will you address that?
241. **RICHARD EVANS:** We have consulted throughout, because of course people have a choice to come to New Southgate. There are other

choices. There are cemeteries already within the borough of Barnet, so you can choose one of those cemeteries instead. The reason that we are well regarded is that we have actually always tried to provide something bespoke and of a high standard, and therefore to have a genuine engagement with religious representatives, who attend our cemetery every day. You cannot be lukewarm about this; it is actually key to what we do.

242. We know, for instance, that the Greek Cypriot Church supports what we are doing. They think it is critical in terms of providing new space for their community. It is the same with the Roman Catholic and Pentecostal Churches. With regard to the Islamic faith, New Southgate holds a very small number of Islamic graves. Tottenham cemetery and Wood Green traditionally have been the places, for instance, for the Turkish community to be buried. But again, if there was an objection to reuse—I think there are 100 Islamic graves in New Southgate, so it is a small number, and those burials all took place within the last 15 years. We are talking about 60 years plus before they would even be considered for reuse. If there was an objection, the same objection procedures would apply.

243. Peter has actually been involved with an Islamic charity that runs a large cemetery in north-east London. Correct me if I'm wrong, Peter, but there is no principled objection to reuse as long as the grave is reused by another member of the faith. I think that is correct.

244. **PETER MITCHELL:** And that the remains have decomposed.

245. **IMRAN HUSSAIN:** I'm not an expert on the matter, but my question was more focused on existing graves. I take the point that people have a choice of where to go in terms of any future burials, but for the existing graves, can you satisfy us that any religious and cultural observances and sensitivities will always be at the forefront?

246. **RICHARD EVANS:** Yes, absolutely. As I say, that is what we—

247. **IMRAN HUSSAIN:** Sorry, Chair, the last thing—and the objection is just a straight objection; it is not something that has to be put before a panel. It is just an objection and it is taken on its face.

248. **RICHARD EVANS:** Yes.

249. **CHAIR:** Just to help us on that, would you undertake to carry out a public exercise, in pursuance of the Minister's letter, and to publish the result?

250. **RICHARD EVANS:** Yes.

251. **CHAIR:** Excellent. We are getting near the end; that is the good news for you. Do the Promoters accept that in so far as they are exercising public functions in connection with the burial, they will be public authorities for the purpose of the Human Rights Act 1998?

252. **NICHOLAS EVANS:** When we were looking at the powers contained in the Bill, we found that it wasn't necessary to reach a view on that point, because if we are public authorities, we cannot act in contravention of the convention rights, but if we are not public authorities and we are exercising the powers, the courts will interpret all the powers in compliance with the convention rights. So the same thing would apply either way—we would be bound by the convention rights.
253. **CHAIR:** So somebody would have to test you in court.
254. **NICHOLAS EVANS:** Whichever way it came, we would still be caught. So for those purposes—for the purposes of depositing the Bill and certifying compliance with the convention rights, we found it wasn't necessary to reach a view on that. I have not really put my mind to it since, I am afraid. I hope you will be content for me to dodge the question.
255. **CHAIR:** Finally, can you confirm that you are seeking the extended powers in the Bill having pursued—you have mentioned part of this—other reasonable methods of achieving the same aims, including purchase of adjacent land and negotiation with others and with owners of private rights, and that this is relevant to the determination of whether the interference by the Bill with private rights is compatible with the ECHR?
256. **NICHOLAS EVANS:** Yes.
257. **CHAIR:** So that's all confirmed. Excellent. Anyone with any questions? Could you excuse us while we go into private session?

The Committee adjourned to deliberate in private from 3.17 pm - 3.19 pm

258. **CHAIR:** Mr Evans, I am pleased to be able to tell you and your colleagues that the Committee is content with what it has heard and is happy for the Bill to proceed to its next stage. Before we conclude proceedings today, could Mr Richard Evans please prove the preamble?

RICHARD EVANS

Examined by NICHOLAS EVANS

259. **NICHOLAS EVANS:** Are you Richard David Evans?
260. **RICHARD EVANS:** I am.
261. **NICHOLAS EVANS:** Are you the managing director of New Southgate Cemetery and Crematorium Limited?

262.     **RICHARD EVANS:** I am.
263.     **NICHOLAS EVANS:** Do you hold responsibility for the promotion of the Bill on behalf of New Southgate Cemetery and Crematorium Limited, which are the Promoters?
264.     **RICHARD EVANS:** I do.
265.     **NICHOLAS EVANS:** Have you read the preamble to the Bill?
266.     **RICHARD EVANS:** I have.
267.     **NICHOLAS EVANS:** It is true?
268.     **RICHARD EVANS:** It is true.

The witness withdrew

269.     **CHAIR:** Thank you all for your attendance today and for answering the questions. We have a much fuller picture and I have learnt something—maybe next time a site visit before we get to a meeting. Thank you.

The Committee adjourned at 3.20 pm.