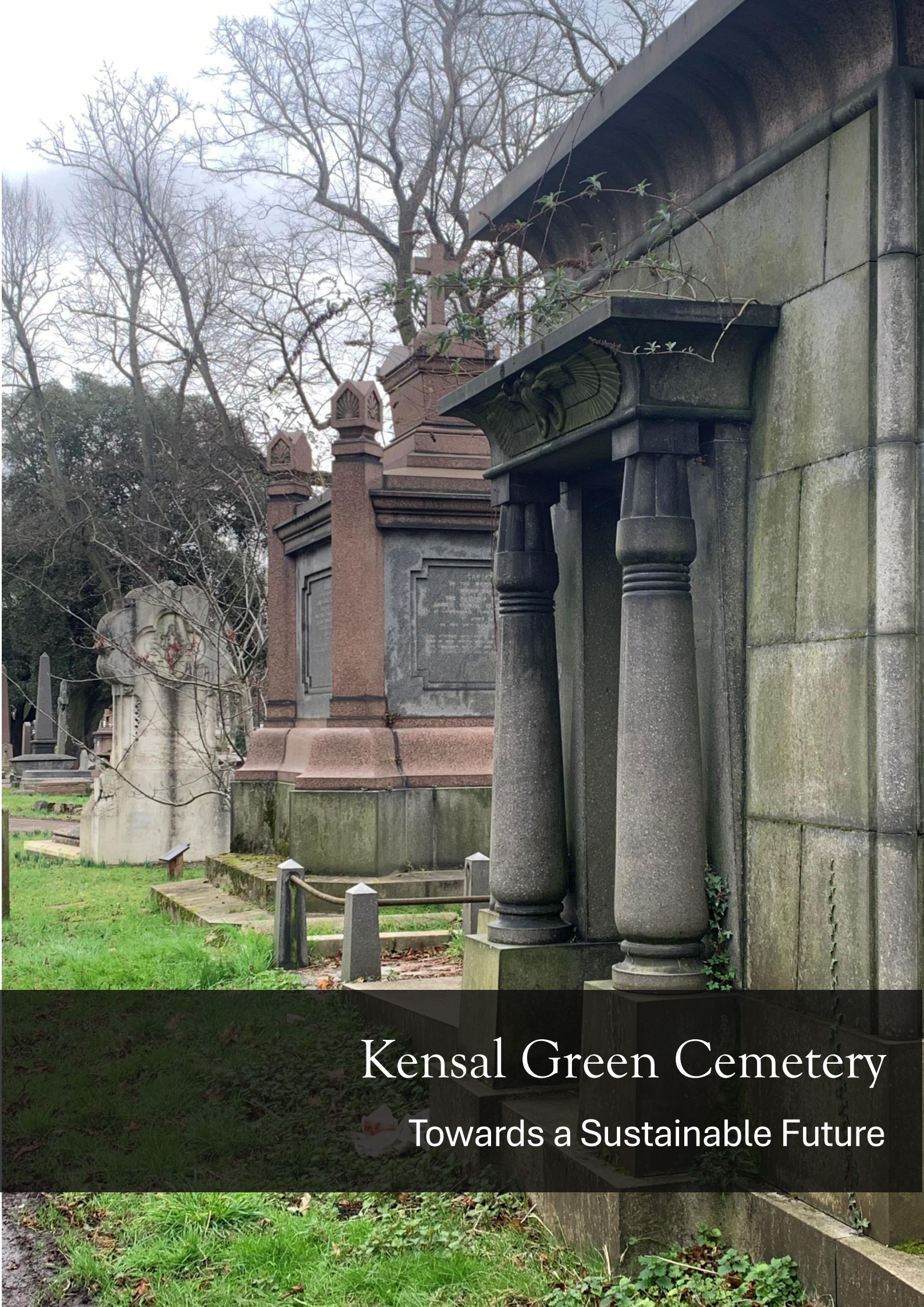


Kensal Green Cemetery

Towards a Sustainable Future

Kensal Green needs to modernise or face an uncertain future

The purpose of this leaflet is to inform the local community and stakeholders about the proposal for a new Bill and why this is being pursued. Community members and stakeholders are invited to provide any feedback or comments on the proposal by 31st July 2024.

The General Cemetery Company ('GCC') which owns and operates Kensal Green Cemetery (the 'Cemetery'), and the West London Crematorium was established in 1832 by an Act of Parliament. Kensal Green Cemetery was one of the original 'Magnificent Seven' great Victorian private cemeteries alongside Highgate, Brompton, West Norwood, Abney Park, Nunhead and Tower Hamlets. Like these, the Cemetery at Kensal was built to an intricate landscape design punctuated with remarkable set-piece buildings that over time have become surrounded by countless monuments and mausolea of great variety and style.

Today the Cemetery is the only surviving example from the Magnificent Seven that is still owned and operated by its original founding company, the others having been closed or compulsorily acquired or transferred into alternative ownership.

The Cemetery is hugely significant in terms of its history and architecture. The site itself is a Grade I registered landscape; it contains the Grade I listed Anglican Chapel, The Dissenters' Chapel and entrance arch both Listed at Grade II* and the North Terrace Colonnade and perimeter walls which are Listed at Grade II. In addition, the Cemetery contains 157 listed monuments, most of which are Grade II but ten of which are individually listed at Grade II*. Historic England have stated that the cemetery "has very high historic and design interest, resulting in an exceptional level of significance reflected in its concentration of highly-graded designated heritage assets". And it is "one of the most important historic places in London". However, many of the buildings and structures are in poor condition and on Historic England's Heritage at Risk Register. Accordingly, Historic England has commented that the site is one of the highest heritage at risk priorities in the London region.

The scale of cost associated with repairing and conserving the large number of historic buildings and structures, the most substantial of which are nearly 200 years old, has increasingly become an issue for the GCC. This issue is perhaps most acute at the Grade I Anglican Chapel which was the centrepiece of the entire site but today is in poor condition.

Whilst the unbroken chain of ownership at Kensal gives the site particular historical significance it also means that the Cemetery is governed by rules and regulations that are nearly 200 years old which in many cases pose significant challenges to the way the site is run and what the directors of the GCC (the 'Directors') can do in the 21st century to meet these challenges.

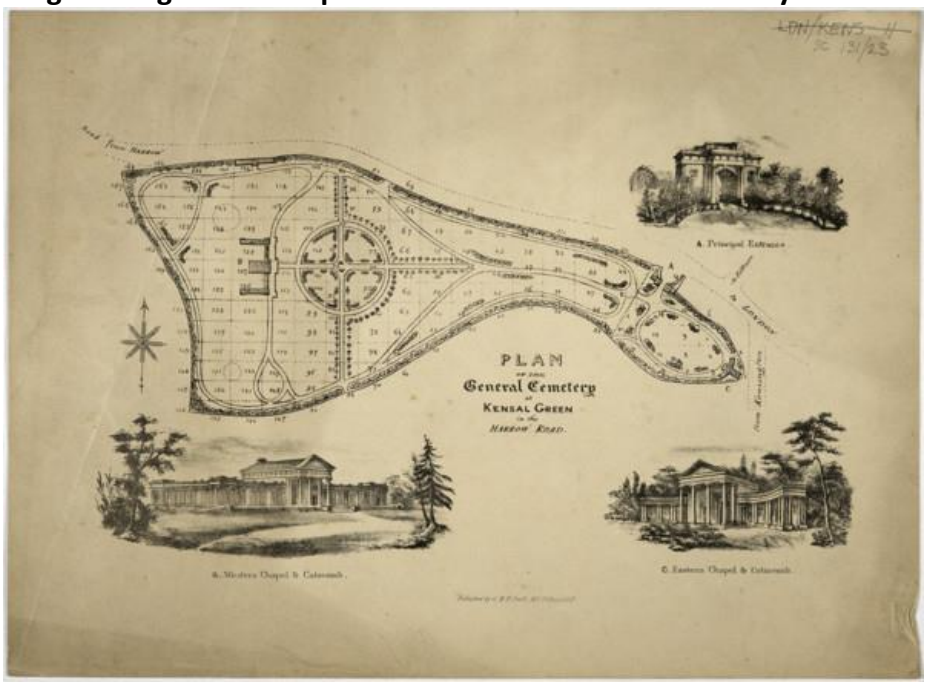
For example, as a private company the GCC cannot apply for any major grants to help repair and repurpose its portfolio of historic buildings as the owners of other heritage assets such as Local Authorities, the National Trust or English Heritage can do. The old rules also mean that the GCC cannot easily borrow money to undertake any repair or repurposing works, which in today's world with high build-costs, is very inhibitive indeed.

Compounding this huge backlog of repair liabilities, the 200 year-old Cemetery is nearly full. Within the next few years, the available space will significantly diminish. Estimates suggest that burial space will run out in around 10 years-time. We would like the Cemetery to continue as a working cemetery and not simply become a tourist attraction. Additionally, the lack of burial space would also remove a vital and significant source of income for the GCC, further reducing the resources available to maintain the Cemetery.

These issues are a major risk to the viability of the GCC and the Cemetery and mean that its long-term future is uncertain.

The GCC has been working closely with specialists and collaborating with key stakeholders such as Historic England to explore opportunities and find ways to address some of the most pressing examples of heritage at risk. Minor grants have been made available to conserve particularly significant monuments and an exceptional grant was recently made to undertake the most urgent repair work at the Anglican Chapel. However, these interventions pale into insignificance in the context of the scale of the challenge at Kensal Green and are in no way sufficient to address the extent of the issues present and it is increasingly clear that it is the way that the GCC is constituted that is one of the single greatest impediments to making any real progress.

Image showing the original masterplan for the Kensal Green Cemetery



A fresh model for the future

In response to the significant challenges they are facing, the Directors have been exploring possible options for how the Cemetery could be operated in the future that could allow the site to continue as an active cemetery and home to the West London Crematorium, whilst improving its ability to secure funds and undertake vital conservation work.

The GCC are proposing the establishment of some form of charitable trust to own the freehold of the Cemetery. A charity would be eligible to apply for major grant funding to invest in repairing heritage buildings and could focus solely on maintaining the rich legacy of historic buildings and structures located on the site. Under this proposal, the GCC could either become a tenant of the new charity or a subsidiary to it and continue to operate the business as usual, managing the Cemetery and the West London Crematorium just as it does today. Such an approach has worked well with historic sites elsewhere in the past.

However, in the GCC's case, the historic Acts of Parliament, as well as the fact that much of the site is consecrated, effectively rule out both of these options. Specialist legal advice has been obtained and confirmed that the GCC cannot pursue the options it has been exploring without an entirely new Act of Parliament; the founding Act(s) effectively prohibit any of the major structural changes that are essential to secure the long-term sustainability of the site.

Based on this advice, the Directors are now clear that the only way to create a sustainable long-term future for the Cemetery is to secure a new Act of Parliament, which we intend to seek in November 2024. This would give the GCC the opportunity to revise the rules by which the GCC can act and bring the organisation up to date in line with modern standards. This would free the Directors from antiquarian constraints that simply did not foresee a time when the Cemetery would have insufficient burial capacity and the GCC would be the custodian of numerous listed buildings and structures.

Whilst this presents a relatively rare set of circumstances, the Directors were heartened by the fact that one or two other cemeteries also set up by Private Acts have previously secured new Acts or changes to their existing Acts; indeed Kensal's near neighbour and another member of the 'Magnificent Seven' at Highgate recently secured a new Act that gave them new powers. Whilst no previous case is exactly the same, it is positive to see that this can be done successfully and relatively speedily.

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Grave renewal

In addition to the restructuring, GCC are also concerned that the Cemetery will soon run out of burial space. Within the next few years, the space available will significantly diminish. The GCC are keen for the Cemetery, particularly as one of the Magnificent Seven, to continue as a working cemetery and not simply become a tourist attraction.

Continuing to provide places of burial is the best way to preserve the special character of the Cemetery and prevent its decline. With their loved ones continuing to be buried here, future generations would value the Cemetery as a spiritual landscape, different in character from other open spaces such as parks.

There are two components to the grave renewal process, both of which could be obtained through the new Act of Parliament, which updates the GCC's regulatory regime. These are reclaiming burial rights that have been granted but never used or only partially used and re-using grave spaces that have been previously used.

Reclaiming unused burial rights in graves that have never been used

When the Cemetery was established, the GCC offered private family graves where members could be buried together. Rights of burial were granted in perpetuity. But families were more mobile than anticipated, and some of the graves that were purchased were never used and have been simply forgotten altogether by descendants.

To become sustainable, the GCC are proposing to introduce the power to take back the ownership of burial rights which have not been exercised. When a grave is purchased, the buyer generally acquires an "exclusive right of burial" for that grave space. There is, in effect, a restriction on utilising the graves without the owner's permission.

Given the significant passage of time, in many cases it is no longer possible to identify or locate the people who now own those existing exclusive rights. However, the rights still exist and so nobody else can be buried in those spaces without breaching the rights. The Bill would allow the burial authority to cancel those rights, by giving notice, after which the rights could be re-sold and the graves used. This is a power that is available to municipal cemeteries in London but is not covered by the GCC's existing Acts.

Reclaiming unused burial rights in graves that have been partially used

The Act of Parliament could also enable the GCC to create additional space for burials in grave spaces that have only been partially used. In some cases, one or more burials have taken place but there is still unused space in the graves. In this scenario, the GCC intend to seek powers to cancel the existing right of burial in perpetuity, so that we would be able to bury on top of other interments already in the grave.

Re-using graves

Occasionally it might also be It is also possible to create additional space by reinterring existing burials at a deeper level in the same grave. Once any existing rights of burial have been cancelled, this reinterment process could be carried out in consecrated parts of the Cemetery with a church permission known as a 'faculty'. The Bill would extend the powers so this process could be carried out in un-consecrated parts of the Cemetery too.

Safeguards for reclaiming unused burial rights or re-using graves

This power would be used sparingly and with the utmost sensitivity. Only long-abandoned graves, both used and partially used, would be considered for renewal: those where the last burial was over 75 years ago or, if the grave is empty, which were sold more than 75 years ago. Experience suggests that if grave rights have not been used for this period, they are unlikely ever to be used. The Act will require advance notice to be given, including writing to any recorded owners, and placing notices in the press, on the web, at the Cemetery entrance, and on the grave itself. If an owner came forward and objected, the renewal would not proceed. If an objection were received from a relative of any person buried in the grave whose remains were proposed to be disturbed, no renewal would be considered for a further period of 25 years.

With these safeguards we would be doing our best to ensure that no grave owner or relatives would be separated from the ownership of a grave which they value. We would be interested in your views about how these safeguards can be refined.

Securing a private Bill

The GCC are clear that securing a private Bill is the answer to the issues faced by the Cemetery. It is the only option that can deliver the modernisation and freedoms required to address the issues at the Cemetery.

The Directors are now working with specialist Parliamentary Agents to undertake the necessary preparatory work to be in a position to submit a private Bill to Parliament in November 2024. This Bill would set out the proposed changes to the GCC's powers and regulation.

Anybody who was directly affected by the proposals in the Bill would have the chance to object to them, in a process known as 'petitioning'. A special Committee in each House of Parliament would hear from both the GCC and any petitioners before deciding whether the Bill should be passed into law. The process is likely to take around 12 to 18 months.

The purpose of this leaflet is to inform stakeholders and the local community about the proposal for a new Bill and why this is being pursued. Stakeholders and residents are invited to provide any feedback or comments on the proposal by 31st July 2024.

Comments should be sent:

By email to peter.humphries@kensalgreencemetery.com with the subject line 'Cemetery Consultation'

or

By post to the General Cemetery Company, Kensal Green Cemetery, Harrow Road, London, W10 4RA

Comments must be received no later than 31st July 2024. All comments received will be duly considered prior to any final decision to proceed with the promotion of the private Bill.

FAQs

Why are you proposing this Bill?

The General Cemetery Company that owns and operates the Kensal Green Cemetery and West London Crematorium cannot afford to repair the huge number of important heritage assets on the site and due to the way the Company was set up it cannot access external funding to do this as the owners of many other heritage sites would. At the same time, the Cemetery is running out of space and this will eventually reduce the funds available for heritage preservation. The proposed Bill will put the GCC on a level playing field with the owners of other heritage sites (and cemeteries) and mean that it can set up a charity to focus on restoration work that is eligible for major grants.

Why can't you do this now?

The GCC is effectively a private for-profit company. This makes it ineligible for the majority of grant programmes. Where funders such as the National Lottery Heritage Fund will consider private companies, they will only make very small grant awards, not anywhere near large enough to tackle the issues at Kensal Green.

How has it come to this?

The Cemetery was set up by a Private Act of Parliament nearly 200 years ago. At that time there was no such thing as Listed buildings or a register of heritage at risk. It was envisaged that the descendants of the deceased would invest in maintaining their family monuments which they legally own and that there would always be sufficient income for the GCC to invest in maintaining its buildings. No allowance was made for the fact that when burial capacity was met, GCC's main source of income would cease.

How much money do you need?

The full extent of the investment required to conserve the many heritage structures on the site and the necessary related infrastructure i.e., drains and roadways is conservatively estimated to be at least £30 million. We know that to fully repair the Anglican Chapel alone and bring it back to life would cost around £9-£10 million.

How long will this all take?

The financial and physical scale of the challenge at Kensal Green is significant. The time horizons to undertake the works required are therefore long and we expect this to be a 20+ year project and thereafter there will always be a need for continued investment in upkeep and maintenance. However, the Cemetery has been here for nearly 200 years and we want it to be here for another 200, serving the diverse communities in west London. Consequently, we are committed to putting in place the changes required to set the Cemetery on a path to a long-term sustainable future.

Can it be done?

Yes. Other cemeteries such as Highgate in London and Arnos Vale in Bristol are now owned and operated by charities and have benefitted from significant external grants.

What happens if this Bill fails?

If the Bill fails there is no way the GCC would be able to conserve the heritage assets it owns. Over time public access would become increasingly challenging. Buildings and monuments would have to be closed-off to the public or laid-down. This has already started to happen, the Anglican Chapel has been closed to the public for some years. Once the remaining capacity at the Cemetery has been used up, the GCC would lose an important source of income and the viability of the GCC at that time would be severely threatened. The worst-case scenario at that point would be the closure of the Cemetery.