



Report for:	Cabinet 4 October 2011	Item number	
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Title:	Bereavement Services Disposal
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Report authorised by :	Lyn Garner - Director of Place and Sustainability
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Lead Officer:	John Morris, Assistant Director Leisure Tel: 020 8489 5602 email: john.morris@haringey.gov.uk
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Ward(s) affected: All	Report for Key Decision:
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1. Describe the issue under consideration

The purpose of this report is to provide the results of the recent informal tender disposal exercise for Bereavement Services and to seek Cabinet approval of the preferred bidder and disposal of the Council's Bereavement Services.

2. Cabinet Member Introduction

In November 2010, Cabinet considered the options available to the Council for the future provision of Bereavement Services and decided to dispose of the business to an external operator. I can now report on the outcome of the subsequent informal tendering process that has now been completed. We received three competent bids which have been evaluated using a 70:30, price: quality criteria. Thus, I am now recommending that Company A are selected as the Council's preferred bidder, with Company B as reserve bidder, for the disposal of our Bereavement Services operation.

3. Recommendations



- 3.1 That on completion of the disposals described in recommendation 3.2 below, the Council ceases to directly provide crematorium and cemetery services (“Bereavement Services”).
- 3.2 Cabinet approve the disposal of the Council’s Bereavement Services as a going concern and its three sites known as Enfield Crematorium, Tottenham Cemetery and Wood Green Cemetery (all of which are shown edged red on the attached Plans – Appendix D).
- 3.3 Cabinet select Company A as the preferred bidder and accept their bid, as set out in paragraph 2.2 of the Exempt Report (Appendix A).
- 3.4 Cabinet select Company B as the reserve bidder and accept their bid, as set out in paragraph 2.2 of the Exempt Report (Appendix)
- 3.5 That the production and implementation of a specific Management Plan for Tottenham Cemetery is a condition of the sale and lease agreements.
- 3.6 Cabinet delegates authority to the Director of Place and Sustainability to agree the final Heads of Terms and related sale and lease agreements.

4. Other options considered

- 4.1 A range of options have already been considered by Cabinet (November 2010) and rejected in favour of the chosen option to dispose on the basis of leasehold arrangements with a specialist operator. Those options are set out below:
 - 4.1.1 Maintain Council operation and prioritise capital investment of up to £13.4m (excludes possible borrowing costs) to upgrade cremation equipment, provide further burial space and upgrade site infrastructure at Enfield Crematorium.
 - 4.1.2 Offer the Enfield Crematorium site only for sale to an external bereavement services operator, via a tender process, whilst retaining ownership and operation of Wood Green and Tottenham Cemeteries
 - 4.1.3 Offer Enfield Crematorium site, with Wood Green and Tottenham Cemeteries for sale to an external bereavement services operator, via a tender process
 - 4.1.4 Offer Enfield Crematorium site only for lease to an external bereavement services operator, via a tender procedure, whilst continuing to directly manage Wood Green and Tottenham Cemeteries
 - 4.1.5 Do nothing. This option will result in the service operating at a net loss within a few years.
 - 4.1.6 In selecting the chosen option, Cabinet took into account the relative priority of Bereavement Services in comparison with the wide range of services provided by the Council



5. Background information

- 5.1 Against a backdrop of reduced service demand, reduced operating surplus and a need for capital investment, the Cabinet meeting of 16 November 2010 approved a number of recommendations in relation to the future of Bereavement Services, as follows:
- 5.1.1 That, subject to 2 below, the Enfield Crematorium, Tottenham Cemetery and Wood Green Cemetery be marketed for disposal as a going concern such disposal to be on the basis of leasehold arrangements with a specialist operator with the heads of terms of the leases agreed by the Head of Corporate Property Services.
 - 5.1.2 That officers progress and secure a detailed Planning Permission for the new burial provisions at Enfield Crematorium Cemetery should the marketing exercise demonstrate that this would increase the site value of Enfield Crematorium.
 - 5.1.3 That the result of the marketing exercise including responses, evaluation, disposal arrangements and recommendations be reported back to Cabinet for approval.
 - 5.1.4 That subject to 1 and 3 above the Council cease to directly provide crematorium and cemetery services.
 - 5.1.5 That approval be given to the disposal on the open market of 1 and 2 Grenville Cottages located at the north-east end of the Enfield Crematorium site, and the associated receipt be ring fenced to support the one off business disposal costs.
- 5.2 Following the Cabinet decision of 16 November 2010, an approach was made to the private sector bereavement services market for expressions of interest to be shown in the acquisition of the Council's Bereavement Service and the three cemetery and crematorium sites, through an informal tender process. At the same time, preparations were made for the sale of 1 and 2 Grenville Cottages which were subsequently sold by auction for £400,000 in February 2011.
- 5.3 For the bereavement services disposal an advert was placed in the spring 2011 edition of the FBCA (Federation of Burial and Cremation Authorities) magazine "Resurgam" and the Journal of the ICCM (Institute of Cemetery & Crematorium Management) published in January 2011. An advert was also placed on the Haringey website. Initially, six companies expressed an interest in participating in a tendering exercise. The Invitation to Tender ("ITT") was issued on 28 March 2011. By the tender closing date three bids had been received. The compliant bids received were from Cooperative Funeral Services, Dignity Funerals Limited and Westerleigh Group Limited.



5.4 Company Profiles

5.4.1 Cooperative Funeral Services

Cooperative Funeral Services are a part of the Co-operative Group which is owned by its 5.8m members. Its separately run Funeralcare operation owns over 880 funeral homes across the UK. Cooperative Funeral Services are currently developing their role as an operator in the provision of cemeteries and crematoria. They operate three crematoria, three woodland burial ground units as well as masonry and coffin manufacturing units.

5.4.2 Dignity Funerals Ltd are the largest private sector cemetery and crematoria operator in the United Kingdom running 34 crematoria, four cemeteries and operating a further 20 cemeteries on behalf of local authorities. Dignity performs more cremation and burials than any other private or public sector organisation in the UK. They are a FTSE 250 company and a Registered Provider regulated by the Financial Planning Authority. In 2010, their turnover from cemetery and crematoria operations was £38m.

5.4.3 Westerleigh Group Ltd

Westerleigh Group are specialists in the development of new crematoria and cemeteries, as well as the refurbishment of existing facilities. They currently operate 16 crematoria, 12 cemeteries and 10 churchyards employing their own staff to carry out grounds maintenance, grave digging, memorial management, cemetery restoration and burial administration. Westerleigh currently have arrangements with ten local authorities. They also have direct experience of the refurbishment of existing crematoria and the restoration of Victorian cemeteries. Their turnover in 2010 was £15m.

5.5 The evaluation of bids was carried out by the project team which consisted of officers from Leisure, Legal Services, Property Services, Central Procurement Unit, Corporate Finance and Human Resources. Officers specialising in parks management and nature conservation also contributed to the quality element of the evaluation process.

5.6 The three bids were evaluated according to the methodology set out in the ITT. This was a two-stage process. The first stage was a Selection Criteria that assessed each bidder's suitability based on their credit rating, profit and loss history and company policies. The second stage was an Award Criteria based on the bidders' offers. Within the Award Criteria, the financial offers of annual rentals coupled with goodwill and income share were weighted at 70% of the total, with the quality offer at 30%. The latter was based on bidder proposals for mercury emissions abatement, grounds maintenance, nature conservation and facility and amenity access. (See Appendix B - Bid Evaluation Criteria and Scoring)



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- 5.7 Tenderers had been requested to bid on a site-by-site basis in order that Best Consideration could be calculated overall, even if this entailed dividing the three sites amongst the highest bidders. In the event, all bidders elected to bid on the basis that all three sites should be kept and managed together. One tenderer submitted a bid that entailed a management charge payable to them to operate two cemeteries. This bid was not evaluated.
- 5.8 Company A, as identified in the Exempt Report (Appendix A Exempt – Results of Tender Evaluation), and in the Bereavement Services Tender Disposal Report (Appendix C Exempt), has made the most economically beneficial bid, scoring the most points in the evaluation process.
- 5.9 Company A scored the lowest in the Quality evaluation; 18.7% out of a potential maximum of 30%. Their score for the proposed approach to the management of biodiversity and conservation was the lowest of the three bidders at 1.3% from a potential maximum of 6.7%. However, specific requirements in the draft Heads of Terms, upon which the contract and leases with Company A will be based, effectively safeguard conservation plans through the inclusion of a break clause for non-compliance. Further details are set out at paragraph 10.4, below.
- 5.10 Following approval of the recommendations contained in this report the company, as the preferred bidder, will be approached to negotiate contract terms which will be based on the current draft Heads of Terms with a view to completing the transfer of the Bereavement Service and the disposal of the three sites to them by January 2012. On that date the Council will cease to provide any Bereavement Service.
- 5.11 Following approval of the recommendations contained in this report, Company B, who scored the next highest number of points, will be identified as a reserve bidder should the disposal to Company A not proceed for any reason. Company B has been recommended as a reserve bidder because of the consideration offered and because of their sound approach to meeting the requirements of mercury abatement legislation, the grounds maintenance specification, conservation and biodiversity needs as well as providing amenity value to visitors to the three sites. Company C are not recommended, as their proposal does not adequately meet the Council's requirements.
- 5.12 The Cabinet meeting of 16 November 2010 stated that “officers progress and secure a detailed Planning Permission for the new burial provisions at Enfield Crematorium Cemetery should the marketing exercise demonstrate that this will increase the site value of Enfield Crematorium”. The tendering process did not demonstrate that the site value would be greater with planning permission for a new burial facility. As such, it was not necessary for officers to progress planning consent. Company C stated that their offer; “... is subject to successful planning permission being granted for the development of the former domestic waste landfill site at Enfield for burial plot use”. Neither Company A nor Company B have applied any such contract conditions regarding planning consent.



- 5.13 As a part of their bid, the preferred bidder has committed itself to providing the necessary investment to ensure that the mercury emissions abatement requirements for Enfield Crematorium will be met by the legislative deadline of January 2013. In addition, they have committed capital expenditure to enhance “front of house” facilities including refurbishment of chapels, columbarium, memorial offices, public WCs, external lighting and car parking. Also, the site will be made accessible for people with disabilities in accordance with the Disability Discrimination Act.
- 5.14 An Equalities Impact Assessment has been completed for this project. Three actions have been identified relating to flexibility of access and opening hours, application of TUPE regulations and the continuance of religious and non-religious observance during chapel services.
- 5.15 Since May 2011, there has been a reorganisation of staff resources in Leisure Services in response to the “Rethinking Haringey” direction. One of the outcomes of the staff reorganisation was a defined list of staff wholly responsible for delivering the service and who, therefore, would transfer to the new operator under TUPE regulations. All fourteen current staff are due to transfer.

6. Comments of the Chief Financial Officer and Financial Implications

- 6.1 The proposed offer from Company A would fully underpin the Bereavement budgeted surplus £655k and transfers the risk of future service demand, service income and capital expenditure requirements. Company A’s offer matches the top end of the valuation range advised by the District Valuer’s Service from the report commissioned by the Council in March 2009.
- 6.2 The form of financial offers from bidders vary slightly, mainly between one-off and annual recurring payments. In order to arrive at the best and fair offer (ie taking into account the time value of money), the tenders were evaluated on their net present value (NPV) using discounted cash flow (DCF) of bidders proposed payments (both one off and annual recurring) and income share/management fees over the 50 year lease. The bid with the highest NPV was deemed to be successful in the tender competition, from the standpoint of the financial offer.

7. Head of Legal Services and Legal Implications

- 7.1 The Council may dispose of the business of cremation and burial service carried out at the Enfield Crematorium, and the burial service carried out at Tottenham and Wood Green Cemeteries, as a going concern.



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- 7.2 The Council may dispose of the sites known the Enfield Crematorium and the Tottenham and Wood Green Cemeteries but must in all instances obtain the best consideration that can reasonably be obtained. A disposal includes a sale of the Council's freehold interest or the grant of a lease for a term exceeding 7 years. A sale on the open market such as this and where the Council is accepting the highest amount of money on offer, albeit in the form of rent, would represent the best consideration that can reasonably be obtained.
- 7.3 Members should note that the rental income on offer is only for the Enfield site and that the rent for both Tottenham Cemetery and Wood Green Cemetery will be a peppercorn each. The preferred bidder has valued the goodwill of the business at nil value, but the equipments and stocks (if any) are still to be valued separately.
- 7.4 Members should also note that the disposal of the business and of the premises means the Council will cease to offer crematorium and cemetery services to its residents on the date of completion of the transaction.
- 7.5 The disposal of the crematorium and cemetery services as a going concern indicated in this report will constitute a "relevant transfer" for the purposes of TUPE (the Transfer of Undertakings (Protection of Employment) Regulations 2006) by reason of it being the transfer of an economic entity which retains its identity to another person. Thus the normal provisions concerning the transfer of employees assigned to these services on the basis of the terms of their existing contracts of employment will apply. As the report indicates, TUPE does not act to protect specific occupational pension provisions (other than any liability concerning parts of a scheme not relating to old age, invalidity or survivors benefits). Some limited protection of future pension rights is provided for by the Pensions Act 2004. Currently, guidance is in place in the public sector to the effect that a broadly comparable pension arrangement should be provided on transfer and that such a comparable scheme should be approved by the Government Actuary Department. However it is possible that this guidance will be subject to withdrawal or substantial amendment at some date in the future following a recent consultation exercise undertaken by HM Treasury.
- 7.6 The report indicates that informal discussion has already taken place with the staff affected and the recognised trades unions. Formal consultation is due to commence following Cabinet approval. Regulation 13 of TUPE requires the Council to consult representatives of the staff affected by the proposed transfer or by measures taken in connection with it. Such consultation should commence in sufficient time to allow for meaningful consultation with those representatives, including the consideration of representations made, before the date of transfer. Such consultation should also include reference to any measures proposed by the new employer in connection with the transfer.

8. Equalities and Community Cohesion Comments



- 8.1 The proposal to transfer ownership of bereavement services to a private operator was the subject of an Equalities Impact Assessment in May 2011. The main equality and cohesion issues from that assessment were in regard to sensitivity to and respect for religious and cultural observances of the client communities. The transfer should result in no change in the respect and sensitivities currently accorded under Council ownership to people of different faiths and cultures since as now, and regardless of who takes over ownership, the service will be run on a commercial basis and any new operator will have an interest in providing a quality and accessible service that cater for the needs of the diverse communities that use it. In addition, we will reflect the Council's equalities ethos in the terms of the transfer by including in the contract wording that ensures that religious and non-religious observances continue to be respected under new ownership so that whoever owns and operates the site will continue to respect the customs and beliefs of the faiths and cultures that use the crematorium and the facilities.
- 8.2 In line with the Council's equal opportunities policy and practice, the Tender Evaluation criteria included considerations of equal opportunities. Company A, the preferred bidder, scored highly on those considerations and is therefore considered to be equalities sound.

9. Head of Procurement Comments

- 9.1 The recommendation for the disposal of the Bereavement service has followed an informal tendering process, in so far as it is a disposal and not a procurement process and therefore not subject to EU procurement Rules. The Council have undertaken a tendering exercise to ensure that the disposal has been subjected to a fully competitive process and gives a Best Value Outcome.
- 9.2 Monitoring of the lease terms and conditions will need to be undertaken by the Council.
- 9.3 The recommendation is in line with the Procurement Code of Practice.
- 9.4 The Central Procurement unit have been involved in this process and support the recommendations.

10. Policy Implications

- 10.1 Property and Assets.** Company A has demonstrated best consideration for the Council and negotiations to agree the Heads of Terms can now be progressed in order to ensure that the timescale of January 2012 for transferring the service is met. This action is in line with the Council's Corporate Asset Policy of only holding assets that contribute to the achievement of corporate objectives and priorities in the longer term.



10.2 Greenest Borough Strategy The Council is committed to protecting Haringey's natural environment by working with local people and other partners to ensure that we preserve, improve, and increase green spaces and their biodiversity through improved maintenance, accessibility and sustainable practices

10.3 A number of concerns were raised by Sustainable Haringey in response to proposals for market testing of Bereavement Services. These concerns were responded to by providing more information and, where practicable, proposing ways of addressing the concerns listed, within the tendering and contracting process. As a result of this action, we ensured that bidders' ability to deliver defined standards of grounds maintenance, conservation, biodiversity, public amenity and emissions control would be judged as a part of the evaluation process. In the ITT, these subject areas formed the whole of the quality submission requirements, worth 30% of the total evaluation score.

10.4 In acknowledgement of Tottenham Cemetery's status as a Borough Grade II Site of Importance for Nature Conservation (SINC), we have included in the Estate Management section of the draft Heads of Terms the following clauses:

"Manage the property in accordance with the principles of good estate management"

"Maintain the appearance of the grounds to a minimum standard equivalent to the national indicator NI195"¹

"To allow free access to and use of the grounds for recreational purposes by members of the public"

"Maintain and enhance biodiversity in the cemeteries in accordance with conservation management plans and the biodiversity report recommendations"

"Break Clause: The landlord to be able to terminate this lease if any of the Cemetery Leases are terminated because certain covenants have not been complied with"

10.5 The implementation of these actions, will contribute towards Haringey's Biodiversity Action Plan target of a 5%, year-on-year, increase in SINC sites under positive conservation management (Ex-National Indicator 197)

10.6 In response to our Heads of Terms requirements, Company A has proposed to:

"formulate its own action and ongoing management plan considering how species and habitats could be both protected and enhanced to encourage growth. The following principles are to form the long term objectives of the management plan:

¹ NI195 is one of the 198 national indicators that is designed to measure Local Environmental Quality, and covers litter, detritus, graffiti and fly-posting. The survey that forms the basis of the NI195 Cleanliness Performance Indicator has been developed to measure the cleanliness of the local environment, as a member of the public would see it.



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1. *maintain and improve the landscape of the area*
2. *maintain the woodlands and fauna in a healthy state*
3. *protect, conserve and encourage all forms of indigenous wildlife appropriate to the habitats*
4. *promote the public use of the area, as long as it is not detrimental to the above*

10.7 This approach will be assisted by Tottenham Cemetery's status as a designated conservation area. This status requires adequate notice of any tree work, including felling and lopping, is provided to the Council. This allows the Council an opportunity to refuse consent effectively providing the same protection as a Tree Preservation Order (TPO).

10.8 Finally, the proposal to replace the four existing cremators with two, abated cremators will achieve the objective of 100% mercury abatement of cremations. It will also reduce both gas consumption and carbon emissions to contribute to the Council's "40/20" target.

10.9 Staff. Since April 2011, there has been a reorganisation of staff resources in Leisure Services in response to the "Rethinking Haringey" direction. One of the outcomes of the staff reorganisation was a defined list of staff responsible for delivering the service and who, therefore, will transfer to the new operator under TUPE regulations. In establishing this list, consultation with staff has occurred to ensure that TUPE posts have been correctly identified. As a part of this overall change process, staff have been kept informed about their status, in regards to TUPE.

10.10 The relevant Trade Unions have been kept informed at Branch level of project progress. In particular we have consulted on pension scheme issues raised during the tendering and bid evaluation process. The TUPE regulations do not apply to pensions and therefore the staff will no longer be eligible to remain within the LGPS but will have the opportunity to join their new employer's scheme. Staff and representatives understand that Admitted Body status cannot apply as an option in this case. Instead, each of the bidders must be able to offer, as well as their existing scheme, a pension scheme that is broadly comparable to the LGPS. This means that the scheme has to have a valid approval certificate from the Government Actuary Department (GAD). Formal TUPE consultation with unions will commence after the Cabinet approval of this report.

11. Use of Appendices

- Appendix A (Exempt) – Results of Tender Evaluation
- Appendix B – Bid Evaluation Criteria and Scoring
- Appendix C (Exempt) – Bereavement Services Tender Report Aug 2011
- Appendix D – Plans



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12. Local Government (Access to Information) Act 1985

12.1 Appendices A and C of this report contain exempt information and are not for publication. The exempt information is under the following category (identified in Part 1 of Schedule 12A of the Local Government Act 1972):

Paragraph 3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

12.2 Background Documents

- Cabinet Committee Printed Minutes 16-10-2010. Item no. 82 “Bereavement Services – Future Provision”
- Draft Heads of Terms



APPENDIX B

Bid Evaluation Criteria and Scoring

Selection Criteria

Company Questionnaire reference	Information requested	Total score available
Part A	General Information	Not scored but Part A must be fully completed
Part B	Financial Details*	125
Part C	Contractual Matters	40
Part D	Health and Safety	40
	Equal opportunities	15
	Environmental	25
Total		245

* A minimum score of 75 was required to progress to the Award Criteria stage.

The detailed scoring scheme for the above is in Appendix C Exempt - Tender Report

Award Criteria – Quality Submission (30% of Total Score)

Ref	Criteria / Score	Enfield	Wood Green	Tottenham	Total % Available
1	Mercury Abatement – Plan to abate 100% of cremations by January 2013	10.00%	n/a	n/a	10.00%
2	Grounds Maintenance proposals for achieving at least current standard	2.22%	2.22%	2.23%	6.67%
3	Biodiversity and Conservation Management – Demonstration of capability in sustaining and implementing Biodiversity and nature conservation action plans.	2.22%	2.22%	2.23%	6.67%
4	Proposed opening hours and access plans	2.22%	2.22%	2.22%	6.66%
TOTAL					30.00%

Continued over...



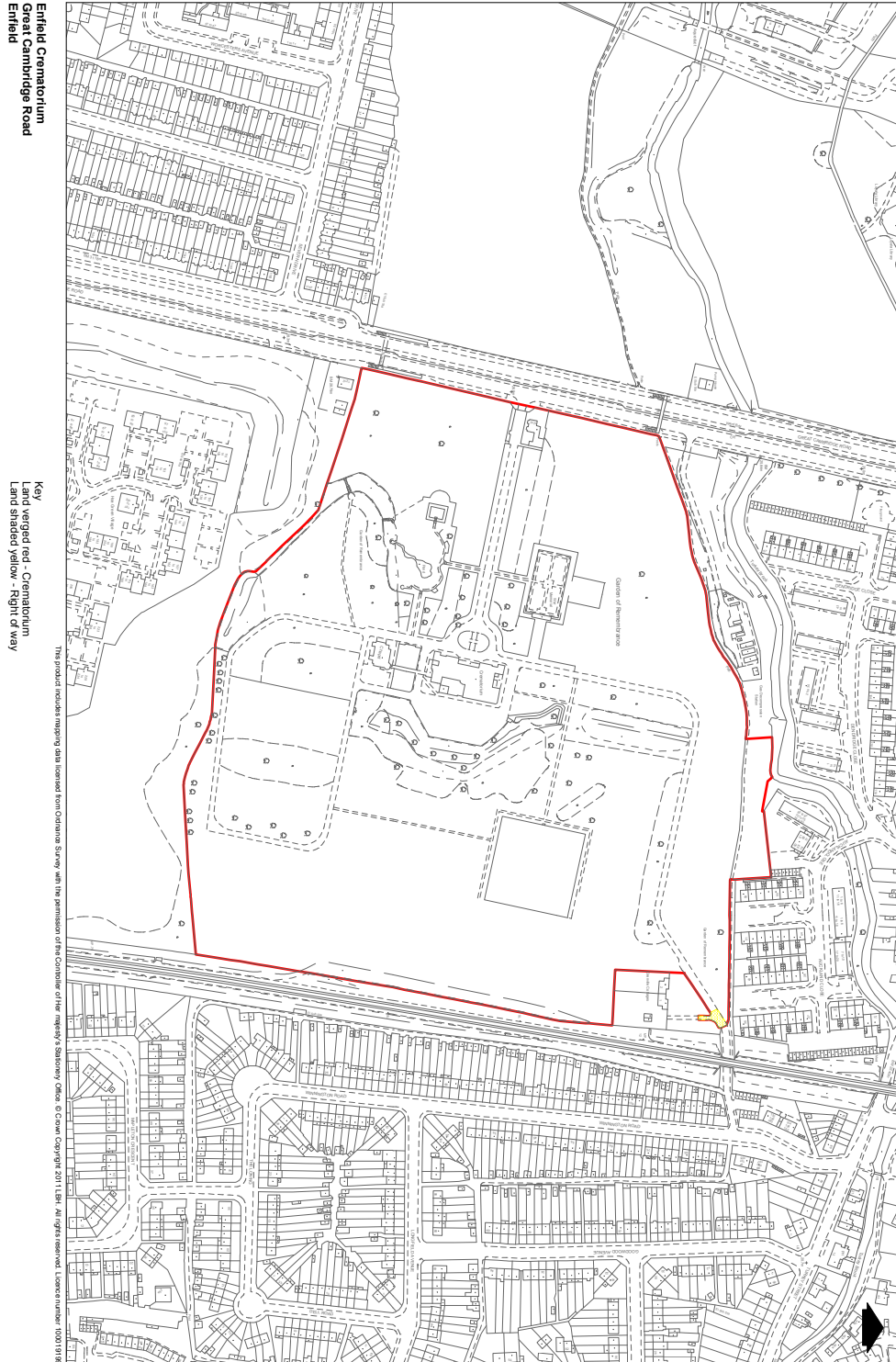
Award Criteria – Financial Offer (70% of Total Score)

	Element
1	Sum of year 1 Annual Rental + Goodwill + Income/profit share offers
2	Annual Rental + Income/profit share increased each subsequent year by RPI or RPIX, for 50 years
3	Sum of 2 above discounted in each year by interest rate assumption
4	Sum of each of 50 discounted yearly incomes = Net Present Value (NPV)
5	70% awarded to highest bid value at 4, above

The highest total bid attracts a score of 70%. The scores of remaining bids are calculated as a proportion of the highest bid.



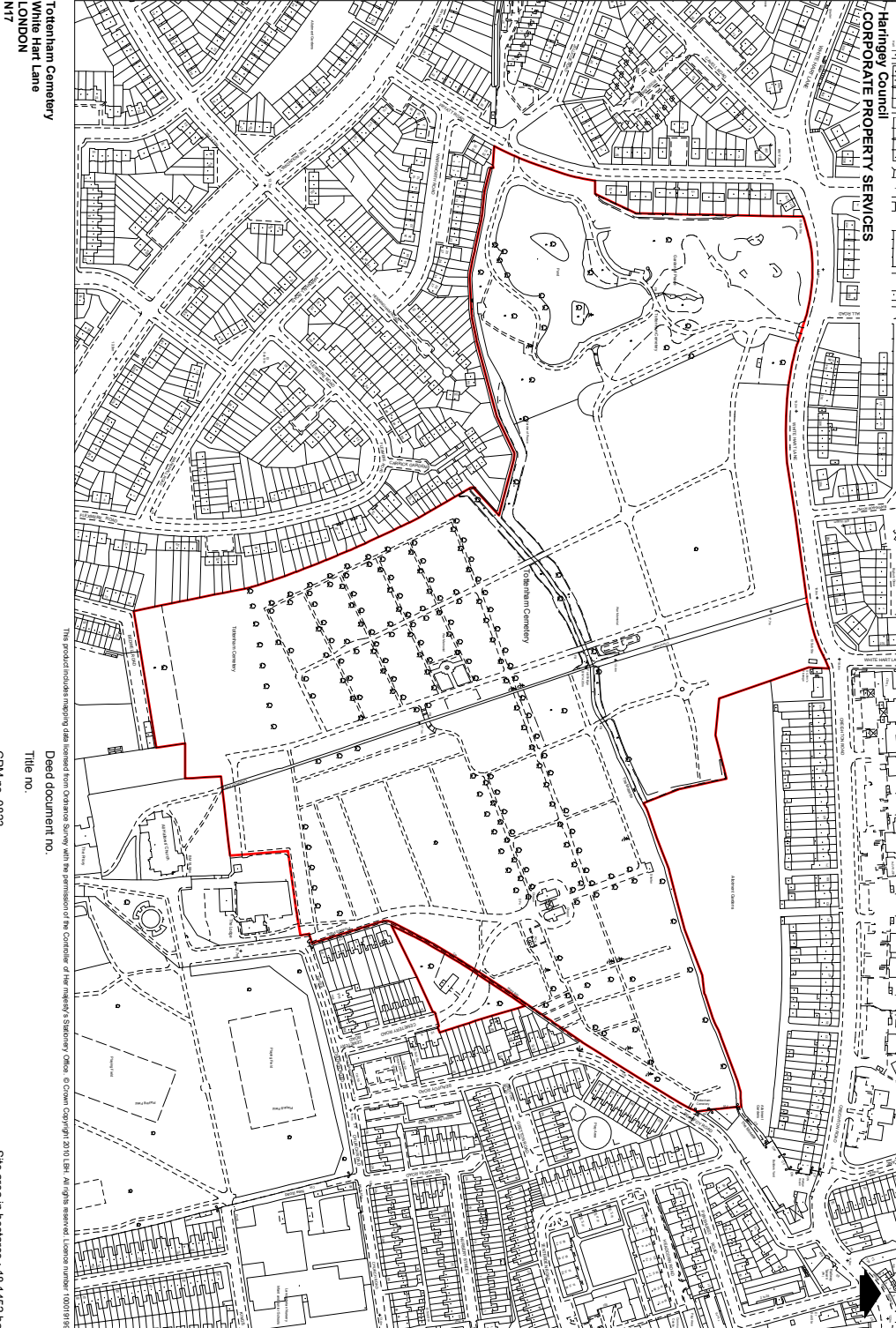
Enfield Crematorium





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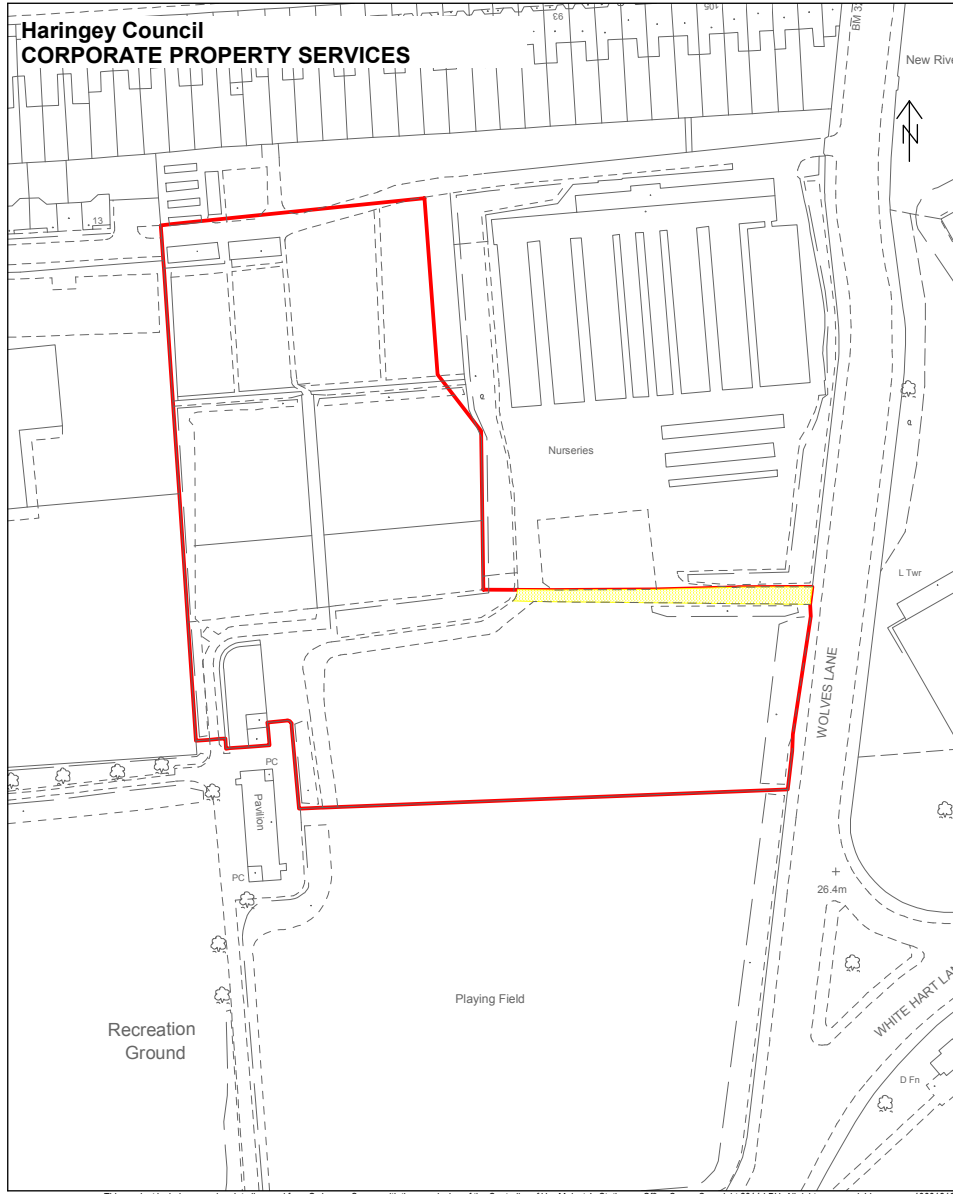
Tottenham Cemetery





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Wood Green Cemetery



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**Wood Green Cemetery
Wolves Lane
Wood Green
LONDON
N22**

KEY
Land verged red - Cemetery
Land shaded yellow - Right of way

Overlay : Environment - Misc
Plan produced by Kevin Lincoln on 01/03/11

Site Area (hectares) : 1.295
Scale 1:1250
Drawing No. BVES A4 2509b