



Are Land Developers Making a Grave Mistake?

Historically the Church of England was the largest landowner in the UK and, whilst this dominance has reduced over the years, the church is still a major player in the UK property market. One of the most important considerations when buying church land is whether there could be interred human remains and what this could mean for a land developer.

Even though land being considered for development may not be classed as a cemetery, it may be considered a disused burial ground, which means there may be interred ashes, memorial gardens or monuments on the site.

Usually, it would fall to the church or other religious bodies to deal with the interred remains. However, all the statutory obligations, restrictions, duties and liabilities imposed on them under the Disused Burial (Amendment) Act 1981 would pass to the new owner, requiring compliance with the provisions of the Act before being able to build on the land.

In general terms, if there are human remains interred on the land, no building may be erected unless the remains have been removed and re-interred or cremated and any tombstones, monuments or memorials have been dealt with in accordance with the provisions set out in the Disused Burial Act. These provisions will not apply if there have been no interments on the land or if the land developer does not receive an objection from a personal representative or relative of the deceased within 6 weeks after advertising their proposal to erect a building on the land (by advertising in two successive weeks in one or more local newspapers and by displaying a notice on or near the land).

Should an objection be made to the proposal, the developer will be required to remove any remains, tombstones, monuments or memorials. Prior to doing this the developer must:

1. Publish in a newspaper circulating in the locality a notice of intention to do so at least once during each of two successive weeks;
2. Display a like notice in a conspicuous place where the remains are interred;
3. Serve a like notice on the Commonwealth War Graves Commission; and
4. If the remains were interred within 25 years before the date of the first publication of the notice serve a like notice on the personal representatives or a relative of the deceased person in so far as the names

and addresses of such personal representatives or relative can be ascertained on reasonable inquiry.

These provisions allow the local community and the relatives of the deceased an opportunity to make their own arrangements for reburial if they wish. The costs of removing and re-interring the remains should be met by the land developer.

Should the developer's proposed building works not involve the disturbance of human remains, the developer may apply to the Secretary of State to dispense with the requirements surrounding the removal of the human remains set out above. The Secretary may dispense of the requirements altogether, or they may impose other conditions. It should be noted that the planning authority may also impose their own separate conditions regarding the remains.

What should land developers consider?

When considering purchasing land for development which was once a burial ground, it is important to ensure thorough consideration is given not only to the legal requirements, and the time and cost of complying with them, but also the deceased's family and friends and the wider community. This is a delicate issue and land developers should proceed with caution and sensitivity.

If you are planning to develop land that was once a site of burial, please contact our [Real Estate Lawyers](#) across our Bournemouth, Southampton and London offices.