

Title of meeting: Cabinet Member for Resources

Date of meeting: 8 March 2018

Subject: Monuments and Memorials policy

Report by: Stephen Baily

Wards affected: All

Key decision: No

Full Council decision: No

1 Purpose of report

To consider the adoption of a comprehensive memorials policy in the city of Portsmouth, to govern the decision making criteria with regard to requests for stone and sculpture memorials, benches and plaques, trees and urban meadows. Secondly to make clear the Authority's position, with regard to roadside memorials.

2 Recommendations

It is recommended that the Cabinet Member approve the adoption of the memorials policy.

3 Background

- 3.1 Portsmouth has over 50 memorials and other stone commemorations due to its naval and military connections. A significant number of these memorials are located on the Southsea seafront and subject to salt damage. There is also a considerable number of memorials in Victoria Park and elsewhere in the city.
- 3.2 There are many benches in the city of disparate material and design. As they wear with age it will not be possible (nor aesthetically advisable) to replace them on a like for like basis.
- 3.3 The Council does not have the resources available to maintain these structures beyond minimal restorative work. In some instances, the Council reserves the right for the memorial to fall into natural disrepair.

- 3.4 A number of other local authorities have issued policy guidance in this connection, including Camden, Westminster and Bristol¹.
- 3.5 Currently the Council has no coherent policy around commemorative structures and this policy seeks to redress this.

4 Reasons for recommendations

The policy (attached at Appendix 1) sets out stringent criteria and the key points are summarised as follows:

4.1 Stone memorials

It is proposed that a Memorial Advisory Panel considers each application on its own merit. Consideration by the Panel will not mean that the application is automatically permitted. There are strict guidelines set out in the policy which include the submission of evidence to show that the applicant is able to self-fund the design, construction, installation and ongoing maintenance of the memorial. This will enable a process for applications to be considered by the Council, in circumstances where the Council is unable to provide any financial assistance. It will also allow for greater control by the Council over feasibility as all applications will need to go through a process to include consideration of site suitability by appropriately qualified architects and stonemasons.

4.2 Benches

The policy will ensure that future applications for benches are reviewed in a considered approach due to the current volume and where benches are replaced they must adhere to the Council's specification. Applicants will be encouraged in all instances to consider alternatives, to ensure that further additions are not made to current 'bench hotspots'. Through the policy, bench design and volume will be controlled and consistent across the city.

4.3 Sustainability

The memorials policy supports the Council's sustainability policy, to improve '*the long-term wellbeing of the area without storing up problems for the future*'. Residents will be encouraged to consider green alternatives to constructed memorials, for example the sponsorship and adoption of trees, or sponsoring a share of Urban Meadow.

¹ For London Borough of Camden, please see <https://www.camden.gov.uk/ccm/content/leisure/arts-music--culture/arts-policy-and-research/apply-to-place-artworks-and-memorials-in-parks-and-open-spaces/>
For Westminster City Council, please see <https://www.westminster.gov.uk/sites/default/files/uploads/workspace/assets/publications/S-and-M-FINAL-VERSION-1243433604.pdf>
For Bristol City Council, please see <https://www.bristol.gov.uk/museums-parks-sports-culture/treebristol-planting-trees-in-bristol>

Such sustainable memorials offer a living memorial to the applicant, enhance the Council's existing planting scheme and benefit the city as a whole by contributing to the environment.

Currently there is a high volume of existing commemorative structures in the city. In conjunction with the sustainability objective, the Council seeks to impose a 'saturation zone' limiting further structures from being erected in certain areas of the city. Please refer to the proposed zone maps at Appendix 2.

4.4 Alternative memorials

There is provision in the policy for memorials to be made by way of practical gifting to the community.

Alternative memorials in the city will ensure that:

- 4.4.1 The Council can put current resources towards restorative work, insofar as possible.
- 4.4.2 There is a long lasting community benefit, for example through usable legacies (e.g. bicycle rack, play equipment, outdoor gym)
- 4.4.3 The use of memorial legacies is promoted for the educational benefit of the city.
- 4.4.4 The Council maintain the aesthetic of the current open green space in the city.

4.5 Roadside memorials

The policy includes a section which covers roadside memorials as there are currently no guidelines to cover this sensitive topic. In the unfortunate event of accidents in the city, roadside memorials can create a safety hazard. Whilst the Council would look to support residents in such difficult situations, the policy seeks to make it clear under what circumstances temporary memorials are acceptable.

5 Equality impact assessment (EIA)

A preliminary Equality Impact Assessment has been undertaken and no protected characteristics are affected by the proposals in this report.

6 Legal Implications

- 6.1 The effect of the memorials policy on the terms of the PFI contract should be borne in mind. Within the policy, memorials are to include statues, monuments, sculptures, benches and plaques. The Service Company ("Ensign") is contractually obliged under the PFI contract to ensure that *architectural street furniture* within the boundaries of the Project Network show no signs of significant degradation, corrosion (other than superficial) or suffer positional defects. There is no definition of "*architectural street furniture*" and this is therefore a matter of interpretation.
- 6.2 In practice, the Service Company do not generally maintain or repair memorials (except benches along the seafront) under the PFI contract (even those within the

Project Network). It is understood that there are various third party contracts as between PCC and Colas to maintain and repair memorials both within and outside of the Project Network. Legal Services have not had sight of these contracts and the commissioner will need to satisfy itself as to these. In terms of practicality, the amalgamation of these third party contracts into one overarching "memorial repair and maintenance" contract may be advisable.

- 6.3 Section 42 of the Public Health Acts, Amendment Act 1890 (as amended) gives the Council power to authorise the erection in any street or public place within its district any statue or monument, and it may maintain but also remove the same. This legislation has not been delegated to the Service Company under the PFI contract and therefore the authority for this remains with the Council.
- 6.4 Section 14 of the Public Health Act 1925 (as amended) governs that the authorities (or their delegates) may, in proper and convenient situations and in any street or public place, erect and maintain seats for the use of the public. This legislation has been delegated to the Service Company under Schedule 19 of the PFI contract. However, there is no express Service Requirement obligation which brings this into effect but the delegation is there should it be required.
- 6.5 In terms of war memorials, the relevant legislation is the War Memorials (Local Authorities' Powers) Act 1923. Section 1 states that a local authority may incur reasonable expenditure in the maintenance, repair and protection of any war memorial within their district. This shall include the alteration of any memorial so as to make it serve as a memorial in connection with any war subsequent to that in connection with which it was erected and the correction of any error or omission in the inscription on any such memorial (section 133 Local Government Act 1948). This legislation has not been delegated to the Service Company under the PFI contract.
- 6.6 It is advisable that the memorials policy contains an obligation that all workings of the policy will be in accordance with any applicable statute or any delegated or subordinate legislation, any enforceable community rights within the meaning of section 2 of the European Communities Act 1972, duly applicable guidance, code of practice, direction, judgment or determination with which the Council and/or the applicant is bound to comply, including the Council's rules, procedures, guidelines, policies, codes of practice, standing orders, financial regulations and standards from time to time.

7 Finance Comments

- 7.1 The costs associated with the application process detailed in the memorials policy will be funded from the existing budget resources of the Culture and City Development Service.
- 7.2 The detailed procedure will provide clarity for both applicants and officers providing a more efficient and economical way of administering the process.

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Signed by:

Appendices:

Appendix 1: Memorials policy

Appendix 2: Saturation zones

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by on

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Signed by: