

ELIZABETH II



1965 CHAPTER X

An Act to vest in the Portsmouth Diocesan Board of Finance a burial ground of the Church of Saint Mary, Alverstoke, in the borough of Gosport; to provide for the removal of restrictions attaching to the said burial ground and for the management, administration, development and disposition thereof; to authorise the erection of buildings thereon and to make provision for the use thereof; and for other purposes.

[2nd June 1965]

WHEREAS in or about October, 1805, certain lands situate in the then parish of Alverstoke in the then county of Southampton and comprising 1 acre and 4 rods or thereabouts were conveyed to certain persons for the use of the Rector of Alverstoke and his successors as a burial place:

And whereas the said lands were thereafter laid out and used as a burial ground for the said parish:

And whereas no burials have taken place in the said lands for a period of more than fifty years:

And whereas the said lands are at present vested in the incumbent of the benefice of Saint Mary, Alverstoke:

And whereas there is in the said parish a lack of buildings or accommodation suitable for use as a parish centre or for other ecclesiastical and charitable purposes:

And whereas it is expedient that for the purposes aforesaid the said lands should be vested in the Portsmouth Diocesan Board of Finance and that the powers contained in this Act with respect to the management, administration and disposition of the said lands, the laying out and development thereof, the erection of buildings thereon and the use thereof should be conferred upon the parochial church council of the parish of Alverstoke:

And whereas it is expedient that the provisions contained herein with regard to the removal of human remains from the said lands should be enacted:

And whereas it is expedient that the other provisions contained in this Act should be enacted:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

And whereas a plan of the said lands and a book of reference thereto containing the name of the owner or reputed owner and occupier of the said lands have been deposited in the office of the Clerk of the Parliaments, House of Lords, and in the Private Bill Office of the House of Commons and with the clerk of the county council of the administrative county of Hampshire, which plan is referred to in this Act as the deposited plan:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title. 1. This Act may be cited as the Saint Mary, Alverstoke, Burial Ground Act 1965.

Interpretation. 2.—(1) In this Act, unless the subject or context otherwise requires—

“ the bishop ” means the Bishop of Portsmouth or, during a vacancy in the see of Portsmouth, the guardian of the spiritualities thereof;

“ the borough ” means the borough of Gosport;

“ the burial ground ” means the lands in the borough shown on the deposited plan, formerly used as a burial ground of the Church of Saint Mary, Alverstoke, and more particularly described in the schedule hereto;

“ the diocesan authority ” means the Portsmouth Diocesan Board of Finance;

“enactment” has the same meaning as in the Town and Country Planning Act, 1962 c. 38.

“the Managing Trustees” means the parochial church council of the parish of Alverstoke.

(2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, amended or varied by, or by virtue of, any subsequent enactment, including this Act.

3. As on and from the passing of this Act, but subject to the provisions of this Act, the burial ground shall be vested in the diocesan authority freed and discharged from all trusts, uses, obligations, disabilities and restrictions whatsoever which immediately before the passing of this Act attached thereto under ecclesiastical law, and from all rights and interests of any person who is an executor, administrator or relative of any deceased person whose remains are interred in the burial ground and from all other trusts, uses, obligations, disabilities and restrictions whatsoever, including the effects of consecration, which attached thereto immediately before the passing of this Act, by reason of the burial ground or any part thereof being a disused burial ground or forming the burial ground or enclosure of a church or otherwise.

Vesting in diocesan authority of burial ground freed from trusts and restrictions.

4. Notwithstanding anything contained in any enactment, but subject to the provisions of this Act, it shall be lawful at any time after the passing of this Act to use, deal with or dispose of the burial ground or any part thereof for building or for any other purpose in like manner as if no part thereof had ever been consecrated or used or set apart for the purpose of the burial of human remains or had ever been or formed the burial ground or enclosure of a church.

Power to use burial ground for building or other purposes.

5.—(1) If and so long as the burial ground shall remain vested in the diocesan authority the Managing Trustees shall have power to manage and administer the burial ground and, with the consent of the diocesan authority, to dispose of the burial ground or any part thereof.

Management, etc., of burial ground.

(2) Without prejudice to the generality of the powers conferred upon them by subsection (1) of this section the Managing Trustees may from time to time—

(a) lay out and develop the burial ground or any part thereof and erect or cause to be erected buildings or structures thereon or on any part thereof and use or permit the use of the burial ground or any part thereof for such ecclesiastical and charitable purposes as they may think fit; and

(b) with the consent of the diocesan authority, lease or let the burial ground or any part thereof or any buildings

or structures erected thereon on such terms and conditions as the Managing Trustees may think fit, and apply the net revenues received from such leasing or letting for the purposes mentioned in paragraph (a) of this subsection.

(3) The Managing Trustees shall in relation to the burial ground keep the diocesan authority indemnified in respect of the matters mentioned in paragraphs (a), (b), (c) and (d) of subsection (4) of section 6 (Supplementary provisions as to certain property) of the Parochial Church Councils (Powers) Measure 1956.

1956 No. 3.

Proceeds of sale.

6.—(1) If under the powers contained in section 5 (Management, etc., of burial ground) the Managing Trustees shall sell the burial ground or any part thereof, all sums of money payable by any person on account of the sale to him of the burial ground, or such part, shall be paid to the Managing Trustees and the receipt of the Managing Trustees shall be a good and sufficient discharge therefor.

(2) The Managing Trustees, after deducting the amount of—

- (a) the costs, charges and expenses incurred by them under section 9 (Costs of Act) of this Act;
- (b) the costs, charges and expenses incurred by them in connection with such sale; and
- (c) the expenses of and in connection with the removal and reinterment or cremation of human remains incurred by them under section 7 (Removal of human remains from burial ground) of this Act;

shall pay the net proceeds of any such sale to the diocesan authority as custodian trustee.

(3) The net proceeds of any such sale paid to the diocesan authority under this section may be invested or applied for the benefit of the parish of Alverstoke in defraying the expenses incurred in the acquisition of land or the erection of buildings for such ecclesiastical and charitable purposes as the diocesan authority may think fit.

(4) Any income arising from the investment of the proceeds of any such sale shall be paid by the diocesan authority to the Managing Trustees to be applied by them for such ecclesiastical and charitable purposes as they may think fit.

Removal of human remains from burial ground.

7.—(1) Before the Managing Trustees erect or cause to be erected any building on the burial ground or use the burial ground or cause the same to be used for any purpose other than as a

burial ground, the Managing Trustees shall remove or cause to be removed therefrom the remains of all deceased persons interred therein.

(2) Before proceeding to remove any such remains the Managing Trustees shall give notice of their intention so to do by publishing a notice once in each of two successive weeks in a newspaper circulating in the borough, with an interval between publications of not less than six days, and shall display a like notice in a conspicuous place in the burial ground and such notice shall have embodied in it the substance of subsections (3), (4), (5), (6), (7), (8) and (9) of this section.

(3) At any time within two months after the first publication of such notice, any person who is an executor, administrator or relative of any deceased person whose remains are interred in the burial ground may give notice in writing to the Managing Trustees of his intention to undertake the removal of such remains and thereupon he shall be at liberty, without any faculty for the purpose but subject as hereinafter mentioned and to any regulations made by the bishop, within two months from the date of such last-mentioned notice to cause such remains to be removed to and reinterred in any other consecrated burial ground or cemetery in which burials may legally take place (but in the case of a churchyard only with the consent of the incumbent of the benefice concerned) or to be removed to and cremated in any crematorium.

(4) If any person giving such notice as aforesaid fails to satisfy the Managing Trustees that he is such an executor, administrator or relative as he claims to be, the question shall be determined on the application of either party in a summary manner by the registrar of the consistory court of the diocese of Portsmouth who shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application and of such reasonable fee payable to the registrar as he may determine.

(5) The expenses of a removal and reinterment or cremation (not exceeding in respect of remains removed from any one grave the sum of twenty-five pounds) shall be defrayed by the Managing Trustees, such sum to be apportioned if necessary equally according to the number of deceased persons whose remains are in the grave.

(6) If within the aforesaid period of two months no such notice as aforesaid shall have been given to the Managing Trustees in respect of the remains in any grave, or if after such notice has been given the person giving it or, as the case may be, the person specified in any order made under subsection (4) of this section (not being the Managing Trustees) fails to comply with a provision of this section, the Managing Trustees may, without any faculty for that purpose, remove the remains of the deceased person and

cause them to be reinterred in such other consecrated burial ground or cemetery in which burials may legally take place as, subject to the consent of the bishop, the Managing Trustees think suitable for that purpose, or cremated in such crematorium as the Managing Trustees think suitable for such last-mentioned purpose but, in the case of interment in a churchyard, the previous consent of the incumbent of the benefice concerned shall be required.

(7) Upon any removal of remains from any part of the burial ground, the Managing Trustees shall deposit with the Registrar General a certificate of removal and reinterment or cremation giving the dates of removal and reinterment or cremation respectively, identifying the place from which the remains were removed and the place in which they were reinterred or cremated and showing the particulars of each removal separately.

(8) All tombstones relating to the remains of any deceased person removed under this section shall, at the expense of the Managing Trustees, be removed and re-erected at the place of reinterment or cremation of such remains, or at such place as the bishop may direct on the application (if any) of such executor, administrator or relative as aforesaid, or, failing such application, on the application of the Managing Trustees and the Managing Trustees shall cause a record to be made of each tombstone taken from the burial ground under this section containing—

(a) a copy of the inscription on it; and

(b) if it is intended to preserve the tombstone a statement naming the place to which it has been taken;

and shall deposit a copy of the record with the Registrar General:

Provided that in the case of a tombstone in respect of which no application is made by such executor, administrator or relative as aforesaid it shall not be necessary to re-erect the tombstone if the Managing Trustees consider that, by reason of its ruinous condition, it is unsuitable for re-erection and any such tombstone may be disposed of in such manner as the Managing Trustees may direct.

(9) The removal of the remains of any deceased person under this section shall be carried out under the supervision and to the satisfaction of the medical officer of health of the borough.

(10) If the burial ground or any part thereof shall be sold by the Managing Trustees before the remains of all deceased persons interred in the burial ground or such part thereof, as the case may be, shall have been removed the provisions of this section shall have effect in relation to the burial ground or such part, as the case may be, as if for the references therein to the Managing Trustees

there were substituted references to the person in whom the burial ground or such part, as the case may be, is for the time being vested.

8. The provisions of the Town and Country Planning Act 1962 and any restrictions or powers thereby imposed or conferred in relation to land shall apply and may be exercised in relation to any land notwithstanding that the development thereof is or may be authorised or regulated by or under this Act.

Saving for town and country planning.

1962 c. 38.

9. All the costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act shall be paid by the Managing Trustees.

Costs of Act.

Section 2.

SCHEDULE

DESCRIPTION OF BURIAL GROUND

The lands in the borough comprising 1 acre and 4 rods or thereabouts, formerly used as a burial ground of the Church of Saint Mary, Alverstoke, and bounded on the south by Green Road, on the west by the Avenue, on the north by the southern boundary of Avenue House and on the east by the western boundary of the residential development on lands formerly known as Little Green.

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CHAPTER x

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Vesting in diocesan authority of burial ground freed from trusts and restrictions.
4. Power to use burial ground for building or other purposes.
5. Management, etc., of burial ground.
6. Proceeds of sale.
7. Removal of human remains from burial ground.
8. Saving for town and country planning.
9. Costs of Act.

SCHEDULE—Description of burial ground.