



# Heart & Soul Funeral Directors

Helpsheet:  
private land burial

## Burial on private land

The potential problems of burial on private land are:

- if on your own land, your garden or your farmland, what happens when you move? If it is a piece of land with its own access, it could be put into trust and not sell it if you move.
- a burial has to be shown on the property deeds. It may affect the value of your property and your neighbours may not be very happy.
- a burial must not take place within 50 metres of standing water or a water course (see environmental guidelines below).

Families with large estates have routinely built a mausoleum or similar building on their land for the burial of family members. Some individuals have been buried in farmland and others in gardens, without this becoming generally known.

More recently, this form of burial has obtained media coverage and numbers have significantly increased. Much of this has been due to the Natural Death Centre, a charity formed to support a less formalised routine for funerals, as well as a better approach to death generally. They have issued a handbook and further publication called *Green Burial*, which explain how to arrange these burials within legal and planning requirements.

There are several advantages to this form of burial. It allows the family a very personal funeral, over which they maintain total control, reduces costs significantly by avoiding the use of a funeral director. Some people make their own coffin or dispense with this altogether, and do not need to purchase a grave in a cemetery.

It is essential to obtain permission from the owner of the land to complete a burial. Any individual or mortgage company that has an interest in the property should be notified.

The difficulties are also significant, although these vary according to the location. Most locations fall into two categories, on farmland and in a garden.

### *Farmland*

These locations are rarely overlooked and will not offend neighbours or the public at large.

The grave site should be on land with a deep water table and be sufficient distance from watercourses so as not to pose a pollution threat. Electrical or other services must obviously be avoided.

A limited number of burials of family members over a period of time may not constitute a 'change of use' and no planning approval is therefore necessary.

Information submitted by the Natural Death Centre states:

'Recent local authority Certificates of Lawfulness have decided that planning permission is not required for the non-commercial burial on private land of a limited number of family, friends or those living in the house. These decisions have not been tested in the courts. The Department of the Environment are

more cautious, and accept merely that planning permission is not required for the burial of one of two persons in back gardens'.

Exceeding a 'limited' number of burials may require planning approval for use as a cemetery or for 'mixed use' if farming is also to continue.

Safe grave excavation would be a further consideration, as well as leaving sufficient depth of soil (at least three feet) over the body. If it is intended to fence or mark the grave(s) with a memorial, planning permission may be required.

In effect, a single burial in a farm situation can proceed without an approach to, or the approval of, any council or other official organisation.

### *Garden*

The situation in a garden is complicated by the proximity of neighbours. They may oppose a burial nearby and may be offended by the sight of a coffin.

Although these may not pose legal objections, it may not be conducive to good relationships. Otherwise, the aspects outlined under farm burials above are broadly similar.

The particular difficulty in these locations is the reduction of the property value due to the presence of a grave. Although figures of 20% are mentioned, this has yet to be proven. Undoubtedly, a significant fall will occur although the fact that many buyers would not even consider the purchase at all seems more relevant.

The body could be exhumed by any new property purchaser, and re-buried in a cemetery. This reason for obtaining an exhumation licence has yet to be tested, but would seem feasible. There are legal means (restrictive covenant) which can ensure the grave remains untouched, but this will involve costs and other uncertainties.

There is a statutory requirement for the landowner to maintain a register of burials. This can be in the form of a sheet of paper or notebook, preferably with a plan to show the location. These should be kept somewhere fireproof and secure, but accessible in case the grave is disturbed by building or excavation works at some stage in the future. It must have the following headings: Entry number / Full name / Address / Date of Birth / Age / Date of Burial / Plan Ref. No. / Funeral Conductor

### Summary of Rules for Private Land Burial

1. According to the Natural Death Handbook "planning permission is not required for non-commercial sites, for a limited number of burials for family, friends and those living in the house." This would appear to include farmland as long as there is no recompense and the land remains croppable and suitable for agriculture. If the criteria above are not met or for a larger number of burials (be careful if more than two) planning permission will be needed for use of the land as a cemetery or for mixed use if farmland.

2. Permission must be given by the landowner to bury a body on private land and any party with an interest in it e.g. a mortgage company must be notified.
3. The Environment Agency guidelines to protect water should be met:
  - no burials should be within thirty metres (one hundred feet) of a spring or standing or running water, ten metres (thirty feet) of a dry ditch or field drain, or fifty metres (one hundred and fifty feet) of a well, borehole or spring that supplies water for any use
  - if the deceased person died from any highly contagious (notifiable) disease or ailment, they may not be buried at home
  - the grave should not contain any standing water when first dug and not be in very sandy soil.
4. You need a Certificate For Burial form from the registrar or coroner before proceeding.
5. You must send the detachable part C of the Certificate For Burial form (the green form) to the registrar within ninety six hours of the burial.
6. You must keep safe and accessible a durable land burial register, showing the following information set out in eight columns with the following headings:

Entry number / Full name / Address / Date of Birth / Age / Date of Burial / Plan Ref No. / Funeral Conductor

#### Recommendations

1. Make sure the burial site has its own access and that it could be retained if the property were to be sold, otherwise a new owner may be able to exhume the body.
2. Make sure the neighbours are not going to object strongly, thereby souring relationships. This can bring surprisingly strong reactions.
3. Take into account that a burial plot in a garden may reduce the value of the property.
4. Add the information about the burial and the location of the site to any deeds or documents for the property.
5. Consult with the local environmental health officer if there are any doubts about the proximity to water courses.
6. There should be no objections from the local council.
7. There are no laws about grave depth, but council cemeteries are required to leave two or three feet of soil above the top of the coffin. The Environment Agency recommends there should be a metre of subsoil below the coffin too.
8. If in any doubt, call the Environment Agency 08708 506506 to be put through to your local branch or see their website [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk). For their full consultation document go to the home page and search for 'burial'

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