ELIZABETH II

1974 CHAPTER xix

An Act to authorise the use of part of the site of the former burial ground adjoining Old London Road, Hythe, in the district of Shepway for building or otherwise; and for purposes incidental thereto. [17th July 1974]

WHEREAS certain land adjoining Old London Road, Hythe, in the district of Shepway in the county of Kent comprising 1·7 acres or thereabouts (hereinafter referred to as " the said land ") is vested in Ellen Maud Longly and Roland Frederick Longly (hereinafter referred to as " the owners ") and forms part of an area of land purchased on 26th April, 1905, by the former Burial Board of the Parish of Saint Leonard, Hythe (hereinafter referred to as " the burial board "), for the purpose of establishing a burial ground and a burial ground was subsequently established thereon:

And whereas during the years 1905 and 1906 the remains of eight deceased persons were interred by the burial board in the said burial ground:

And whereas in the year 1906 the owner of certain land adjoining the said burial ground upon which dwelling-houses had recently been constructed obtained an injunction restraining the burial board from using for burial any part of the burial ground within 100 yards of any of those dwelling-houses:

And whereas, following the obtaining of the said injunction, the burial board discontinued the use of the said land for burial and the remains of the eight deceased persons aforesaid were removed and re-interred elsewhere:

And whereas in the year 1908 the burial board sold the said land by public auction, with the exception of the site of any grave in which the remains of any of the deceased persons aforesaid had been interred and which sites became vested in the mayor, aldermen and burgesses of the former borough of Hythe as successors to the burial board:

And whereas the mayor, aldermen and burgesses of the former borough of Hythe sold the said sites in February, 1974, to the owners:

And whereas it is believed that the said land has never been consecrated:

And whereas the said land has been used for sixty-five years and upwards as a market garden and nursery:

And whereas the said land is a disused burial ground within the meaning of the Disused Burial Grounds Act 1884: 1884 c. 72.

And whereas it is expedient that the said land should be used for building and other purposes and that the restrictions imposed by the said Act of 1884 should be removed:

And whereas outline planning permission has been granted by the local planning authority for the development of the said land for residential purposes:

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

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 Old London Road, Hythe, Burial Ground Act 1974.

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

" the burial ground " means the lands adjoining Old London Road, Hythe, in the district of Shepway in the county of Kent comprising 1·7 acres or thereabouts and edged red on the signed plan;

" enactment " has the same meaning as in the Town and Country Planning Act 1971; 1971 c. 78.

" the owners " means the owners referred to in the Preamble to this Act or other the persons in whom the burial ground is vested at the date of the passing of this Act;

" the signed plan " means the plan which has been signed in quadruplicate by Oscar Murton, the chairman of the Committee of the House of Commons to whom the Bill for this Act was referred, of which plan one copy has been deposited in the office of the Clerk of the Parliaments, House of Lords, one copy in the Private Bill Office of the House of Commons, one copy in the office of the Shepway District Council and one copy with the owners.

(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 from the passing of this Act, the burial ground shall be freed and discharged from all trusts, uses, obligations, disabilities and restrictions whatsoever (including the effects of consecration, if any) which immediately before the passing thereof attached to the burial ground and from all other trusts, uses, obligations, disabilities and restrictions whatsoever which attached to the burial ground, or any part thereof, immediately before the passing of this Act by reason of the burial ground, or any part thereof, being a disused burial ground or otherwise: Discharge of trusts and restrictions affecting burial ground and saving for private rights.

Provided that nothing in this Act shall operate to affect prejudicially any private right or easement over the burial ground, or any part thereof, which attached thereto immediately before the passing of this Act.

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, develop, 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 used or set apart for the interment of human remains. Power to use burial ground for other purposes.

Saving for Town and Country Planning Act 1971.
1971 c. 78.

5. Section 289 of the Town and Country Planning Act 1971 (which for the avoidance of doubt declares that the provisions of that Act and any restrictions or powers thereby imposed or conferred in relation to land apply to land notwithstanding that provision is made by any local Act passed before or during the Session of 10 & 11 Geo. 6 for authorisation or regulation of development of the land), shall apply to this Act as if it had been passed during that Session; and accordingly the Town and Country Planning Act 1971 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Act.

Costs of Act.

6. The costs, charges and expenses preliminary to and of and incidental to the preparing, applying for, obtaining and passing of this Act or otherwise in relation thereto shall be paid by the owners.

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