Queen's Road Brighton Burial Ground Act 1975

CHAPTER iii

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.
3. Discharge of trusts and restrictions affecting scheduled land.
4. Power to use scheduled land for other purposes.
5. Removal of human remains from scheduled land.
6. Saving for Town and Country Planning Acts 1971 and 1972.

SCHEDULE—Description of land referred to in this Act.

ELIZABETH II



1975 CHAPTER iii

An Act to provide for the removal of restrictions attaching to the Queen's Road Burial Ground in the borough of Brighton; to authorise the use thereof for other purposes; and for purposes incidental thereto.

[8th May 1975]

WHEREAS—

(1) The former Queen's Road Brighton Presbyterian Church situate in North Road in the borough of Brighton near to the junction of that road and Queen's Road was originally constructed in or about the year 1825 and was then known as Hanover Chapel (hereinafter referred to as " the said church "):

(2) There is appurtenant to the said church a burial ground extending southwards to Church Street in the said borough and westwards to Queen's Road and the interment of human remains has taken place both in that burial ground and in the vaults under the said church and its ancillary buildings and passageways (which burial ground and the said church and its ancillary buildings and passageways are described in the Schedule to this Act and are hereinafter referred to as " the scheduled land "):

(3) By Order in Council of Her late Majesty Queen Victoria dated 29th March, 1854, burials in the scheduled land were discontinued and the scheduled land constitutes a disused burial ground within the meaning of the Disused Burial Grounds Act 1884:

1884 c. 72

(4) The scheduled land is now vested in the Presbyterian Church of England Trust, a company incorporated under the Companies Act 1948 as a company limited by guarantee, and it is expedient that the scheduled land should be freed from all restrictions which may affect it by reason of its being a disused burial ground and that the same be permitted to be used for other purposes:

1948 c. 38.

(5) It is expedient that the provisions contained in this Act with respect to the removal from the scheduled land of any human remains interred therein should be enacted:

(6) It is expedient that the other provisions contained in this Act should be enacted:

(7) 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 Queen's Road Brighton Burial Ground Act 1975.

Interpretation.

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

" the borough " means the borough of Brighton;

" enactment " includes an enactment in this Act or in any general or local Act and any order, byelaw, rule or regulation made under any Act;

" the owner " means the person for the time being receiving the rack-rent of the scheduled land, whether on his own account or as agent or trustee for any other person, or who would so receive the same if the scheduled land were let at a rack-rent;

" the scheduled land " means the land described in the Schedule to this Act.

(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 enactment, including this Act.

Discharge of trusts and restrictions affecting scheduled land.

3. As from the passing of this Act the scheduled land shall be freed and discharged from all trusts, uses, obligations, disabilities and restrictions whatsoever which immediately before the passing thereof attached to the scheduled land and from all other trusts, uses, obligations, disabilities and restrictions whatsoever which attached to the scheduled land or any part thereof immediately before the passing of this Act by reason of the scheduled land or any part thereof being a disused burial ground within the meaning of the Disused Burial Grounds Act 1884 and the provisions of that Act shall cease to apply to the scheduled land. 1884 c. 72.

Power to use scheduled land for other purposes.

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 scheduled land or any part thereof for any purpose in like manner as if no part thereof had ever been used or set apart for the interment of human remains.

Removal of human remains from scheduled land.

5.—(1) Before the owner begins to use any part of the scheduled land for any purpose likely to involve the disturbance of human remains, he shall give notice of his intention to remove, or cause to be removed, from that part of the scheduled land the remains of any deceased person found interred therein 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 upon or near to the scheduled land and such notice shall have embodied in it the substance of the following provisions of this section.

(2) At any time within two months after the first publication of such notice, any person who is a personal representative or relative of any deceased person whose remains are interred in that part of the scheduled land may give notice in writing to the owner of his intention to undertake the removal of such remains, and thereupon if such remains can be identified he shall be at liberty to cause such remains to be removed and re-interred in any 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, and forthwith after such re-interment or cremation shall provide to the owner a certificate for the purpose of enabling the owner to comply with the provisions of subsection (6) of this section.

(3) If any person giving such notice as aforesaid fails to satisfy the owner that he is such personal representative or relative

as he claims to be, the question shall be determined on the application of either party by the county court, and the court shall have power to make an order specifying who shall remove the remains and as to the payment of the costs of the application.

(4) The expenses of such removal and re-interment or cremation (not exceeding in respect of remains removed from any one grave or any one vault the sum of one hundred and twenty pounds) shall be defrayed by the owner, such sum to be apportioned if necessary equally according to the number of deceased persons whose remains are removed from the grave or vault.

(5) If—

(*a*) within the aforesaid period of two months no such notice as aforesaid shall have been given to the owner in respect of the remains in any grave or vault; or

(*b*) within two months after such notice has been given no application has been made under subsection (3) of this section and the person who gave the notice fails to remove the remains; or

(*c*) within two months after any order is made by the county court under the said subsection any person, other than the owner, specified in the order fails to remove the remains; or

(*d*) the remains to which the notice relates cannot be identified;

the owner shall be at liberty to remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place, or removed to and cremated in such crematorium, as the owner thinks suitable for the purpose, but in the case of interment in a churchyard, the previous consent of the incumbent of the benefice concerned shall be required.

(6) Upon any removal of remains from the scheduled land a certificate of removal and re-interment or cremation shall be sent to the Registrar General by the owner giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated, showing the particulars of each removal separately.

(7) (*a*) Subject to the provisions of this subsection, any monument or tombstone relating to the remains of any deceased person removed and re-interred under this section shall, at the expense of the owner, be removed to and re-erected at the place of re-interment of such remains or at such other place as the county court may direct on the application either of such personal representative or relative as aforesaid, or of the owner.

(*b*) Subject to the provisions of this subsection, any monument or tombstone relating to the remains of any deceased person removed and cremated under this section shall at the request of

such personal representative or relative as aforesaid or, if no such request is made at the discretion, and in either case at the expense, of the owner be removed and re-erected at such place as may be agreed between such personal representative or relative and the owner or, in default of such agreement, at such place as the county court may direct on the application either of such personal representative or relative or of the owner.

(*c*) Any monument or tombstone not re-erected in accordance with the provisions of paragraph (*b*) of this subsection shall be broken and defaced before being disposed of in such manner as the owner thinks fit.

(*d*) The owner shall not be required under this subsection to remove and re-erect any tombstone built into or forming part of a building on the scheduled land unless and until that building is demolished.

(*e*) The amount required to be paid by the owner in respect of the cost of removal and re-erection or disposal of any monument or tombstone under this subsection by or at the request of the said personal representative or relative or at the direction of the county court shall not exceed the sum of thirty pounds.

(*f*) The owner shall cause a record to be made of each monument and tombstone taken from the scheduled land under this section containing—

(i) a copy of the inscription thereon; and

(ii) if it is intended to preserve the monument or tombstone, a statement naming the place, if any, where it has been re-erected;

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

(*g*) Where the owner considers that, by reason of its illegible or ruinous condition, a monument or tombstone removed under this subsection is unsuitable for re-erection, the owner may dispose of the monument or tombstone in such manner as he thinks fit.

(*h*) In this subsection references to re-erection include placing a monument or tombstone in any position in which any words inscribed thereon are visible.

(8) The removal of the remains of any deceased person under this section shall be carried out in accordance with any directions that may be given by the Secretary of State.

(9) Any jurisdiction or power conferred on the county court by this section may be exercised by the registrar of the court.

Saving for Town and Country Planning Acts 1971 and 1972. 1971 c. 78.

6. 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 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 Acts 1971 and 1972 and orders, regulations, rules, schemes and directions made or given thereunder shall apply to development authorised by this Act.

SCHEDULE

Section 2.

DESCRIPTION OF LAND REFERRED TO IN THIS ACT

A piece of land in the borough known as the Queen's Road Brighton Presbyterian Church and Burial Ground containing in the whole 0·375 hectare or thereabouts lying to the east of Queen's Road, to the south of North Road and to the north of Church Street, including the church and its ancillary buildings and passageways constructed on some part thereof and bounded by a line commencing in North Road at a point 11·89 metres or thereabouts east of Queen's Road and proceeding in an easterly direction along North Road for a distance of 30·86 metres or thereabouts, thence in a southerly direction for a distance of 20·50 metres or thereabouts, thence in a westerly direction for a distance of 0·58 metre or thereabouts, thence in a southerly direction for a distance of 40·01 metres or thereabouts, thence in a westerly direction for a distance of 0·33 metre or thereabouts, thence in a southerly direction for a distance of 36·65 metres or thereabouts to meet the northern boundary of No. 67 Church Street, thence in a westerly direction along the northern boundary of No. 67 Church Street for a distance of 15·62 metres or thereabouts, thence in a southerly direction to Church Street for a distance of 23·47 metres or thereabouts, thence in a westerly direction along Church Street for a distance of 28·04 metres or thereabouts to the junction of Church Street with Queen's Road, thence in a northerly direction along Queen's Road for a distance of 40·74 metres or thereabouts, thence in an easterly direction along the southern wall of No. 118 Queen's Road for a distance of 12·27 metres or thereabouts, thence in a northerly direction along the rear boundaries of Nos. 118 to 113 Queen's Road (being the Guardian Royal Exchange offices and the Eagle Star building) for a distance of 75·06 metres or thereabouts to North Road at the point of commencement.

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