

# David Brunton submission of 11 January 2024

## PE1941/BB: Stop the destruction of headstones within community cemeteries

Scottish Borders Council (SBC) Cemetery Improvement Programme.

This will not detail failures in project management at SBC, suffice to state that:

- The council considered an Invitation to Quote to be a project plan for a five-year rolling programme of works.
- The council misinformed stakeholders about what was being tested
- The council paid over £100k to a contractor without once inspecting the works, let alone signing them off
- The council had to go back into cemeteries to fix the Health and Safety issues left by the contractor
- The council failed to follow the law, and attempted to cover this up
- The council failed to follow best practice and use Individual Notices.

What I will look at here are two facts, firstly, stones belong to individuals and not the council, and secondly, listed building consent and the failure of councils to follow the criminal law.

Stones belong to individuals and families, not the council.

My stones date back to 1691, some are individually listed, others are listed as part of the cemetery. Although the council agree they are listed, they are not informing Historic Environment Scotland of these planned works, nor are they obtaining listed building consent.

See

[https://www.whatdotheyknow.com/request/listed\\_stones\\_in\\_traquair\\_kirk](https://www.whatdotheyknow.com/request/listed_stones_in_traquair_kirk)  
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The first I will know that these stones have been laid flat or socketed is when I next go to the cemetery. The council pinning notices on Cemetery gates informing me they intend to do testing does not help.

I am not given the chance to repair these stones in situ.

The use of Individual Notices, which SBC agreed with when they signed up to the 'Burial ground memorial safety: local authority guidance' in 2019 was quickly forgotten, as was the rest of this document. The council decided it was guidance, and was ignored, including the need for Listed Building consent.

Although some councils, Dumfries and Galloway for instance, learnt from their mistakes and now post Individual Notices for a 3 months period, SBC refuse to use them.

It must be stated here that Guidance is NOT the way forward. There needs to be an enforced use of Individual Notices in cemeteries.

You also cannot have councils breaking the law. Listed Building consent needs to be removed from the hands of those Councils who consider it something others should follow, and they can ignore. This situation needs looked at by this committee as it is a national disgrace. It's not only SBC who have ridden rough shod over the planning laws, most other councils in Scotland have done the same.

In the case of Ettrick Cemetery 46 stones were laid flat (a third of all stones) in a Category B listed cemetery, including the stone of James Hogg, the Ettrick Shepherd. This occurred even after SBC gave Ettrick Community Council assurances that stones would not be immediately downed. This destruction of Historic sites should never have been allowed to happen.

When this was raised with SBC, they miscited the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and claimed they did not need to tell Planning that works were being done, even though they had previously stated they required this permission. <https://www.legislation.gov.uk/ukpga/1997/9/section/8> section 8.(3).(d) has been omitted)

This is a blatant breach of a law that only the council enforces. They also stated it wasn't in the public interest to enforce.

SBC went into Peebles St Andrews cemetery and took down over 600 stones and damaged many in the process. St Andrews is Category C

listed, (although the Council believe it is Category B), with individually listed stones. Again, no consent was obtained, and the devastation to this cemetery is permanent. These are gravestones belong to Individuals, including that of my 2<sup>nd</sup> great grandfather.

The council were asked for the health and safety reasons for taking some stones down, they refused to answer the question.

The council went into Lennel Cemetery and took down 89 stones in a category B listed cemetery where the ex-Prime Minister Alec Douglas-Home is buried

The Council had no listed building consent. This brought about the immediate cessation of the testing programme.

Even though FOIs have been made to the council, no information as to what happened has ever been disclosed, SBC decide to make changes, which included better notification and not testing stones below 2 feet. So basically, no meaningful change and a continuation of breaking Listed Building consent as one council officer won't enforce the law against another.

The Council informed Citizen Participation and Public Petitions Committee looking at this cemetery process that they intended to re-erect all stones that were laid flat at Lennel, with the possibility of re-erecting all laid flat stones in all cemeteries (PE1941/X: Scottish Borders Council submission of 23 December 2022). Council now state they will only reinstate some stones they had been laid flat in Lennel, and any socketed stones would be left.

Testing of socketed stones at Lennel show movement that make them unsafe. Council tells people not to test them.

Scottish Ombudsman won't look at this as I asked them to prosecute the officers concerned, something they can't do, so they decided not to bother looking at the complaint at all.

At an estimate we have over half a million pounds worth of damage, over 30 criminal offences, a permanently scarred environment, listed and scheduled sites desecrated and stones belonging to individuals treated as a nuisance.

Councillors at SBC, who should have a grip on this, can't or won't get involved. One councillor wrote to me to state he wouldn't back using Individual Notices as he thought a small child may go to read it, and the

stone would fall onto him. This further shows that the whole testing process should be taken out the hands of councils and councillors.

The committee cannot let this destruction of Scheduled Monuments, Listed Buildings and cemeteries continue without oversight. It is obvious from the above that what is happening cannot be allowed to continue.