

20 November 2018

Policy, Projects & Resources Committee

Allotments

Report of: *Phil Ruck - Chief Executive*

Wards Affected: *All*

This report is: *Public*

1. Executive Summary

- 1.1 This report considers changing the agreement of the existing Allotment sites referred to in this report to Statutory sites and provides recommendations for new Agreements between the Horticultural Societies and the Council.

2. Recommendation

- 2.1 That future Allotment Agreements be granted in accordance with the terms set out in Heads of Terms attached at Appendix A and that the sites mentioned are designated as 'Statutory Allotments'.**

3. Introduction and Background

- 3.1 The Brentwood and Hutton Horticultural Societies have requested that all allotments are given statutory status. At present none out of the ten allotments have statutory status.
- 3.2 The intention is to provide them with future protection as detailed later in the report and to set standard heads of terms and contracts for all allotment sites in the borough.

3.3 The ten Allotment sites where new Agreements are being considered are as follows:

1. Birkbeck Road, Hutton
2. Bishops Hall, Pilgrims Hatch
3. Crescent Rd, Warley
4. Honeypot Lane, Brentwood
5. Hartswood, Brentwood
6. Middle Rd, Brentwood (formerly referred to as Common Road)
7. Ongar Road, Brentwood
8. Park Road, Brentwood (The main entrance now on Cleves Way)
9. River Rd, Brentwood
10. Whittington Road, Hutton

3.4 Birkbeck Road and Whittington Road sites are run by Hutton Horticultural Society and the remainder are run by Brentwood Horticultural Society.

3.5 The existing agreements that are in place are set out in Appendix I

Brentwood Horticultural Society

3.6 The most recent agreement is between Brentwood District Council (now Brentwood Borough Council) and the Trustees of Brentwood Horticultural Society dated 25 March 1981 for a term of seven years.

This covers the following Allotment sites:

- Bishops Hall, Pilgrims Hatch
- Crescent Rd, Warley
- Honeypot Lane, Brentwood
- Hartswood, Brentwood
- Middle Rd, Brentwood (formerly referred to as Common Road)
- Ongar Road, Brentwood
- Park Road, Brentwood (the main entrance is on Cleves Way)
- River Rd, Brentwood

Hutton Horticultural Society

- 3.7 There is an overall agreement relating to several Allotment sites dated 1956 although the only two now covered by this Agreement are Whittington Road and Birkbeck Road sites. There is a separate agreement relating to the Trading Shed on the Birkbeck Road Allotment site which is summarised after the Allotment Agreement summary.

This covers the following Allotment sites:

- Birkbeck Road, Hutton
- Whittington Road, Hutton

- 3.8 The Brentwood and Hutton Horticultural Societies have requested that all the allotments are given statutory status.
- 3.9 Most of the Allotment sites are bounded by residents fencing and the maintenance of some of the boundaries is something that requires clarification.
- 3.10 The Council wishes to propose general terms on all the Allotment sites as detailed in the Heads of Terms outlined in Appendix A.

4. Statutory Status

- 4.1 The current status of the Allotment sites is that the Agreements with Brentwood Council can be terminated at one year's Notice subject to the timing criteria (set out in the Agreements) for the service of Notices being met.
- 4.2 The Horticultural Societies are understandably fearful that with such a relatively short Notice period they do not have the security they wish and have asked that the Allotment sites are designated as Statutory Allotments.
- 4.3 There are two categories of Allotments defined in the Allotment Acts:
1. **Statutory sites** are those that a local authority has acquired for the purpose of allotment gardening and is protected under the Allotment Act 1925.
 2. **Temporary sites** have been acquired for other purposes and are being used as allotments in the interim. An example is a site for a school or a cemetery which is used as allotments until the original intention of the site is realised. Sometimes such sites can be used as temporary allotments for several decades before the original plan for the land is implemented.

- 4.4. In summary Statutory sites have legal protection whilst temporary ones do not and this is why the Horticultural Societies are seeking for the sites to be deemed 'Statutory'.
- 4.5 By designating the Allotment sites as Statutory it means that the Council could not dispose of the land without the Secretary of State giving their consent.
- 4.6 Such consent can be given unconditionally or subject to such conditions as the Secretary of State thinks fit but it will not be given unless the Secretary of State is satisfied that adequate provision is made for the Allotment plot holders elsewhere. Adequate provision is defined as a new site being within three quarters of a mile of the existing site and easily accessible.
- 4.7 For a statutory Allotment the conditions which the Council must meet before the Secretary of State can consent to the disposal of the Allotment land fall under Section 8 of the Allotments Act 1925 and there are 3 mandatory criteria:
- The Secretary of State is satisfied that adequate provision will be made for allotment holders displaced by the action of the local authority or
 - The Secretary of State is satisfied that such provision is unnecessary or
 - The Secretary of State is satisfied that such provision is not reasonably practicable.
- 4.8 To prove that an Allotment site is surplus to requirements, the Council would need to show:
- The site is either not being used or suffers from low occupation
 - That in the case of a large Allotment site, it only has a few occupants left on it.
- 4.9 Thereafter the council would need to meet the adequate alternative provision criteria as detailed above unless this is unnecessary or not reasonably practicable.
- 4.10 The Secretary of State would consider the following in determining whether this criterion has been met:
- The number of plots (if cultivated) and their size
 - The number of existing plot holders
 - The number of people on a waiting list for the site in question (and consideration of the waiting lists for Allotment sites across the Borough.
 - If the waiting list has been closed and at what number

4.11 Summary of the dates in legal documentation (referred to in Appendix H) where sites had a mention of an allotment use and time since this allotment use (up to 2018):

• Birkbeck Road, Hutton	1956 – 62 years
• Bishops Hall, Pilgrims Hatch	1981 – 37 years
• Crescent Rd, Warley	1977 – 41 years
• Honeypot Lane, Brentwood	1950 – 68 years
• Hartswood, Brentwood	1981 – 37 years
• Middle Rd, Brentwood (formerly referred to as Common Road)	1967 – 51 years
• Ongar Road, Brentwood	1956 – 62 years
• Park Road, Brentwood (The main entrance now on Cleves Way)	1981 – 37 years
• River Rd, Brentwood	1981 – 37 years
• Whittington Road, Hutton	1956 – 62 years

4.12 Bearing in mind the specific allocation of these sites for Allotments over a long period of time it is not possible to designate them as ‘temporary sites’ (sites intended for another use that are being temporarily used as allotments).

5. Charges

5.1 Part of the discussion between Brentwood Council and the Horticultural Societies has been concerned with the levying of reasonable charges to plot holders as the current historic charges are very low and not in line with modern levels. This means that the Horticultural Societies struggle to finance projects such as the recent upgrading of water supplies to some Allotment sites. It is clear just how low the current charges are when one looks at the charges being charged at sites in other boroughs (see details further on in this section).

5.2 From discussions with the Horticultural Societies they are keen to increase the low historic plot holder charges to a more reasonable level so that they have the ability to actively manage the sites and react to items that require expenditure.

5.3 Brentwood Horticultural Society currently charge an annual membership of £5 per person per year and they advertise rent plots at £3.50 per rod per annum. To give this some context 1 rod is equivalent to 5.0292 metres and a 5 rod plot would cost £17.50 per annum to rent. There is a £5 discount in their annual charge for the over 65’s on their first plot.

5.4 Hutton Horticultural Society currently charge between £25 and £45 per plot per annum depending on the plot size and there is an annual membership of £5 per person or £7 for a family membership.

Brentwood Horticultural Society rental income

5.5 The treasurer for Brentwood Horticultural Society provided the following rental income for the 2017/ 2018:

• Bishops Hall, Pilgrims Hatch	£189
• Crescent Rd, Warley	£457
• Honeypot Lane, Brentwood	£405
• Hartswood, Brentwood	£2,841
• Middle Rd, Brentwood	£437
• Ongar Road, Brentwood	£739.50
• Park Road, Brentwood	£1,458
• River Rd, Brentwood	£253.50

Total £6,780

(Brentwood Council currently receive 10% of this rental income)

5.6 He commented earlier this year that“The plot rental has been increased by 16.67% for the current year but for several reasons I am anticipating an increase in rental income of slightly in excess of 20%”.

Hutton Horticultural Society rental income

5.7 Hutton Horticultural Society's 2014 rental income figures show plot rents ranging between £5.50 to £33 per annum per plot at the Whittington Road site (18 plots with 3 vacant) giving an income for this site of £198 for the year. The Birkbeck Road site also achieved rental income of between £5.50 to £33 per plot per annum producing an annual income of £115.50 for this site. This produced an annual total between the two sites of £313.50. Their 2016 accounts shown in Appendix B show a slight increase in the total income to £390 for the year.

5.8 By way of comparison some of the nearby Boroughs to Brentwood i.e. Basildon, Castlepoint, Epping Parish Council, Harlow, Ongar Town, Redbridge, Southend and Thurrock levy the following charges for Allotment plots:

Basildon

- Market Road, Wickford - £34.60 per plot per annum (OAP £17.25 per plot per annum) plus additional one off charge of £5.15 for a key to your allotment site (replacement key £5.15).

- St James' Road, Vange - £34.60 per annum per plot (OAP £17.25 per annum per plot) plus additional one off charge of £5.15 for a key to your allotment site (replacement key £5.15).
- Victoria Park, Laindon - This site includes toilet facilities. Small plot £59.55 per annum, medium plot £89.30 per annum, Large plot £119.05 per annum. Key charges: There is a £10.15 charge for a set of keys, of which £5 will be refunded when the keys are handed back. If a key is lost, the charge for a replacement will be £5.15, if the complete set of keys is lost, the charge for replacement will be £15.15.

Castlepoint Council

The current fee for an allotment plot is £69.50 per full plot per annum (90' x 30') and £35 per half plot (45' x 30') per annum subject to annual review in January

Epping Town Parish Council

From April 2018 the annual rent of an allotment will be £25.25 per annum for a single plot and £50.50 per annum for a double plot. For Seniors (65+) the price is £22.20 per annum for a single plot and £44.45 per annum for a double plot per annum.

Harlow

The cost of renting an allotment plot is 18p per square metre (typically £22.50 per annum for a half plot of 125 square metres and £45.0 per annum for a full size plot of 250 square metres), with 50% concessions given for pensioners, full time students or those on Jobseekers Allowance, Income Support or Employment & Support Allowance.

Ongar Town Council

The plots in Moreton Road are of 5 Rods (Rod=25sqm) in size. Rent is paid annually and is currently £17.32per plot.

The plots in Castle Street are of 10 Rods (Rod=25sqm) in size. Rent is paid annually and is currently £40.95 for a full plot and £20.47 for a half plot.

London Borough of Redbridge

Redbridge Residents

£10.40 per Rod per annum for more than 5.1 Rods

£11.50 per rod per annum for 5 Rods and below

Not Redbridge Residents

£15.40 per Rod per annum for more than 5.1 Rods

£16.70 per rod per annum for 5 Rods and below

Concessions

People 60 years and over and people with registered disabilities:

£5.10 per Rod per annum for more than 5.1 Rods (Redbridge OAPs only)

£5.60 per rod per annum for 5 Rods and below

Southend Council

Please see Appendix F for their Allotment charges

Thurrock Council

Full and half-size plots are offered on both sites at the following rates:

- full plots (10 rods) are let at **£103** for the year
- half-size plots (5 rods) are let at **£55** for the year
- senior citizens and people with disabilities are given a **15%** reduction on plot letting.

Community Benefits of Allotments

- 5.9 The National Allotment Association states on their website that their members said their love of allotment gardening comes from the fresh air, home grown produce, healthy lifestyle and like-minded people this activity offers.
- 5.10 Other widely recognised benefits are the encouragement of biodiversity, a reduction in 'food miles' compared with similar produce in local supermarkets, the opportunity for local people to get out in the fresh air, the mental health benefits of being in an area of green space and the encouragement the sites provide for social interaction.
- 5.11 The Council are keen to encourage these health benefits

6. Water Supply to the Allotment Sites

- 6.1 Both the 1956 Agreement with Hutton Horticultural Society and the 1981 Agreement with Brentwood Horticultural put the responsibility for the provision of water to the sites and the maintenance and payment of the water supply within the responsibilities of the Horticultural Societies.
- 6.2 The Hutton Horticultural Society Agreement dated March 1956 states: "The tenants are to carry out all arrangements necessary for the provision and installation of water for the use of the Allotment holders and to bear the cost thereof."
- 6.3 The Brentwood Horticultural Society Agreement dated March 1981 states: "The Horticultural Society is to pay the water supply charges and maintain such supply within the sites".

- 6.4 This is of particular interest as there is no dedicated water supply to the Allotment site at Whittington Road in Hutton (run by Hutton Horticultural Society). A quote was received from Essex and Suffolk Water in 2016 for installing a dedicated supply to the site from the water main in Whittington Road (including a bib tap - a push lever tap in a protective box) in the sum of £ 9,308 + VAT.
- 6.5 We have been advised by Hutton Horticultural Society that their site at Birkbeck Road is watered from rainwater collected in storage tanks although we await confirmation from the Horticultural Society that this arrangement complies with the Water Supply (Water Fittings) Regulations 1999 details of which are set out in Appendix E.
- 6.7 We are also aware of ongoing works to the water supplies and storage facilities on the Brentwood Horticultural Society sites to comply with the Water Supply (Water Fittings) Regulations 1999 (see Appendix E for details of the requirements)

7 Issue, Options and Analysis of Options

- 7.1 At its meeting on 27th March 2015 the Councils Asset and Enterprise Committee adopted a 'Disposals at Less than Best Consideration' policy.
- 7.2 This is a disposal at less than best consideration and in order to comply with Council policy and sections 123(1) and (2) of the Local Government Act 1972 it is necessary to undertake an assessment of the extent to which the organisations activities contribute towards achieving the Council's aims and objectives. In undertaking the assessment it is also necessary to:
- Include a copy of the organisation's constitution and three years of accounts.
 - Set out the extent to which the organisation is proactive in seeking to share and make available the assets to other community and voluntary sector uses on a not for profit basis
 - A recommendation as to the length of any discount
 - Confirmation that the organisation will submit its activities and accounts on an annual basis or when required by the Council.
- 7.3 The assessment for each Horticultural Society and their contribution to the community can be found at Appendix B.

8 Reasons for Recommendation

- 8.1 The documentation (see reference to documents in Appendix H) relating to the allotment sites run by the Brentwood and Hutton Horticultural Societies shows that they have been used as allotments for periods of time ranging between 37 and 62 years and as such these cannot be considered temporary in the context of the Allotment Acts.

- 8.2 For this reason it is recommended that these be given Statutory Status to give the Horticultural Societies the security they are seeking so they can manage the sites in a sustainable way going forward.
- 8.3 New standard agreements are proposed based on the standard Heads of Terms set out in Appendix A and it is proposed that these terms (the rent will need to be index-linked from the date of this report) form the basis of future agreements on all allotment sites within the Borough. The rent is an administrative cost per site and will relate to all sites regardless of the number of plots or plot holders. By way of comparison and to put this charge into perspective, plot charges in other boroughs and parishes are outlined in section 5.5.
- 8.4 Based on these Heads of Terms, new modernised Agreements need to be put in place on the sites to ensure that the sites are sustainable in the future.

9 Consultation

- 9.1 No formal external consultation has been undertaken other than with the Horticultural Societies referred to and solicitors.

10 References to Corporate Plan

- 10.1 Value for Money: policies that invest in key services to create opportunity for all, provide better value for Brentwood's taxpayers and enhance the Borough's infrastructure whilst modernising and transforming Brentwood Borough Council. We will re-prioritise and focus our resources and be innovative in our approach.
- 10.2 Our Borough: Policies which promote our environment, support sustainable growth, and safeguard our high-quality environment including heritage and countryside. We will provide responsive, accessible and forward-thinking services for vulnerable residents, supporting people back into work and providing good quality housing making Brentwood our residents' Borough of Choice.

11 Implications

Financial Implications

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- 11.1 The rental income is at less than best consideration i.e. below Market Rent.

Legal Implications

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11.2 Relevant in the event of a proposed disposal of a lease interest at less than best consideration or market value, the General Disposal Consent (England) 2003 provides there is no need to seek the specific consent of the Secretary of State provided that the purpose for which the interest in the land is being disposed of by way of the lease is likely to contribute to the “promotion or improvement” of the economic, social, or environmental well-being of the area and the difference in unrestricted value of the lease of the land and the actual price paid for the lease (if any) is not more than £2 million. Government guidance (Circular 06/2003) states that ‘In determining whether or not to dispose of land for less than the best consideration reasonably obtainable, and whether or not any specific proposal to take such action falls within the terms of the Consent, the authority should ensure that it complies with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue’.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

11.3 None.

12 Appendices to this report

Appendix A - Standard Heads of Terms

Appendix B - Less than best consideration contribution of Horticultural Societies and other background information.

Appendix C - Allotments location map within the borough of Brentwood

Appendix D - Brentwood Horticultural Society Allotment Plans

Appendix E - Water Supply (Water Fittings) Regulations 1999

Appendix F - Southend Council Allotment Charges

Appendix G - Brentwood Horticultural Society Side Letter Agreement 25 July 1989

Appendix H - Details of documentation showing history of Allotment use on sites referred to.

Appendix I - Summary of Allotment Agreements relating to the Brentwood and Hutton Horticultural Society Allotment sites.

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