

## **Cabinet**

**18 January 2023**

**Future of County Council Allotments**

**Ordinary Decision**



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### **Report of Corporate Management Team**

**Alan Patrickson, Corporate Director of Neighbourhoods and Climate Change**

**Councillor Rowlandson, Cabinet Portfolio Holder for Resources, Investment and Assets**

#### **Electoral division(s) affected:**

Countywide

#### **Purpose of the Report**

- 1 The purpose of the report is to ask Cabinet to:
  - (a) consider a range of allotment policy and procedure changes, building on work and recommendations from the Environment and Sustainable Communities Overview and Scrutiny Committee (ESCOSC) in January 2020;
  - (b) provide updated countywide policy and tenancy agreements for consideration, setting out transition arrangements which ensure that these measures are focussed on genuine allotments only, allotment associations are encouraged and empowered and that tenants have adequate time to make adjustments if this is required;
  - (c) provide an update on Durham County Council allotment service including recent investments, which complement the above changes and re-invigorates service provision.

#### **Executive Summary**

- 2 Durham County Council manages over 4,000 allotment plots spread across 166 sites in County. It does this mainly through direct letting (102 sites, 995 plots) where the Council fully manages the site, collects rent, maintains waiting lists, and issues all tenancies or through Allotment Associations (55 sites 2,429 plots) where the Council tenancy

and rent terms are managed by the Council, however Associations collect rent, manage sites and have greater autonomy. The Council has worked to encourage greater devolution of its allotment holdings over a number of years.

3 In January 2020 Environment and Sustainable Communities Overview and Scrutiny Committee reported the findings of its review of the service to Cabinet. The summary recommendations of this report are as follows, with the full report in Appendix 2:

- large animals (horses, pigs) no longer permitted on allotment plots, with a transition period of 5 years to be adopted;
- all DCC directly managed allotment sites in the county are managed by one DCC service team (currently 2 sites are managed by Corporate Property and Land, the remainder DCC Allotment Service);
- to undertake a complete review of allotment sites that are not used for purpose (some for instance are garage sites, gardens, grazing paddocks);
- to encourage establishment of allotment associations where appropriate to take over day to day management and control;
- undertake discussions with Town and Parish Councils that have expressed an interest in taking over the management of allotment sites;
- that subject to legal advice, reconsiders the process for the allocation of plots to co-workers within the proposed policy by acknowledging their previous contributions whilst not registered. Furthermore, there is a need to actively publicise the need for co-workers to register;
- that should there be demand, the Council considers the feasibility of providing smaller sized allotment plots where appropriate;
- that the Council considers undertaking a rental review of all DCC allotment sites.

4 Since this time, work has been undertaken in response to the report, for instance detailing all non-allotment plots (including those proposed for exclusion from policy), promotion of co-worker's registrations, and provision of smaller sized plot when opportunity arises. The main outstanding future changes now relate to consideration of the policy aspects of Scrutiny recommendations.

- 5 When the Scrutiny report was published and reported to Cabinet, concerns were expressed by a number of tenants who had large animals on these sites, and furthermore some Associations felt it was restrictive on them and called for greater autonomy rather than restrictions.
- 6 This report provides a response to the Scrutiny recommendations for delivery, recognising the concerns expressed, and proposes to:
  - exclude some non-allotment sites from the proposals in the report, for instance grazing paddocks and garage sites;
  - take account that several grazing areas are located on the edge of what are mainly cultivated allotment sites and are proposed to be managed going forward as grazing for which there has been a long history;
  - encourage greater empowerment and flexibility for Association sites by supporting long term lease or giving Associations some discretion (in consultation with the Council) for bespoke policies for their own sites. This may for instance include keeping of large animals on specified plots but would limit the expansion for these purposes;
  - provide a range of transition measures and timescales to ensure that tenants have time to make adjustments.
- 7 A recommendation from ESCOSC was to engage with Town and Parish Councils regarding the potential of transfer. The Local Government (Parishes & Parish Councils) Regulations 1999 introduced a requirement that land held by higher tier authorities should transfer to lower tier authorities set up after that date, and for County Durham this has applied to the City of Durham Parish Council, where allotments have been transferred, there are likely further opportunities with Town and Parish Councils, which it is proposed to be explored.
- 8 In February 2022, as part of the Medium-Term Financial Plan, Cabinet agreed for the 2022/3 budget investments into the service to improve the management of the sites through additional staff, increased maintenance budgets and capital investment to encourage community run facilities (associations) and site improvements. Since this time four new allotment staff and three maintenance staff have commenced work which will include practical measures (e.g., fencing, footpath and rubbish clearance on sites), as well as provide greater inspection capacity and support to tenants and Associations in their management. This team will be a vital resource in the implementation of updated policies.

- 9 As a further step in encouraging and strengthening Associations, a capital grant scheme of £250,000 has been set aside as part of the Medium-Term Financial Plan which would provide grants to of £500 to £5,000 to the associations, and for direct let sites making steps to become one. Given the tight financial climate, whilst in existing budget, authorisation is sought before committing to this expenditure.
- 10 Prior to bringing this report the details covered by the report has been shared with ESCOSC in November 2022, its response is included at Appendix 8 which endorses the approach and 'on the whole members did feel that the balance was right'. Members did raise concerns about allotments not being used for their true purpose and that 'as a minimum individuals should be paying the correct fees for the use of the land and not allotment fees'. This work is already underway. Furthermore, they also suggested a strategy that considers provision, this will be progressed through engagement with Towns and Parish Councils who have prime responsibility in parished areas.

## **Recommendation**

- 11 Cabinet is recommended to:
  - (a) agree to formal acceptance of ESCOSC policy recommendations, that would result in updated policy and tenancy agreements (Appendices 3 & 4);
  - (b) note that safeguards are included which would:
    - (i) exclude those sites, which although managed by the allotment service are currently used detailed in Appendix 7 for other purposes;
    - (ii) provide flexibility for Associations in consultation with the Council to come to bespoke arrangements for their site;
    - (iii) provides a transition period for tenants set out in (Appendix 5);
  - (c) note that allotments held by higher tier authorities should transfer to lower tier authorities set up after 2009 and consistent with this engagement with Town and Parish Councils where this applies;
  - (d) note the recent investments in allotments, and infrastructure capital grant scheme for which budgetary provision already exists.

## Background

- 12 At the time of Local Government Reorganisation, Durham County Council inherited over 160 sites designated as allotments comprising 4,000 plots. 102 of these sites, comprising 995 individual plots are directly let by the allotment service where the Council fully manages the site, collects rent, maintains waiting lists, and issues all tenancies or through Allotment Associations (55 sites 2,429 plots) where the Council tenancy and rent terms are managed by the Council, however Associations collect rent, manage sites and have greater autonomy. A further two sites are managed by Corporate Property and Land, and one site through Sunderland City Council.
- 13 In addition to the above, there are 44 sites owned and managed by Towns and Parish Councils, which is recognised in the Local Government Act 1972 as the appropriate tier for their management. To allow local empowerment and decision making the Council has been encouraging establishment of Allotment Associations, and when new Towns and Parishes formed, such as the City of Durham Parish Council, transferring its allotment provision to them.
- 14 At Local Government Review the Council inherited the tenancy agreements from the District Councils and they differed in content. Since this time an updated standard tenancy has been introduced for new tenants, and the work of the allotment team has focused on the common elements between them, such as enforcement of cultivation, standardising waiting lists and site improvements.
- 15 It is important to note that not all plots are used for cultivation of crops, the original intention of the provision. Over several decades the provision has changed so that in addition to cultivation, some plots and indeed sites are now gardens, garage sites, grazing paddocks, and other uses. The portfolio is split between 130 sites that are predominantly used and sustainable as allotments moving forward and 37 sites that are predominantly not used as allotments or where the costs of reconversion would be prohibitive.
- 16 On 20 January 2020 the Environment and Sustainable Communities Overview and Scrutiny Committee reported its findings of an extensive review of allotment in County Durham. It involved site visits and consultation with Town and Parish Councils, Associations, national bodies, and surveys of tenants. Its report, provided in **Appendix 2**, made a series of recommendations for future management.
- 17 Whilst many of the recommendations in the report were uncontroversial, the ESCOSC recommendation regarding removal of large animals within five years resulted in a number of concerns expressed and emotive media stories displaying the attachment that tenants had to

their large animals especially horses. In addition to tenants, several Associations approached the Council concerned about their loss of local autonomy and discretion, not just for large animals but for other day to day aspects of running their site. There was reference in the ESCOSC report for a review and separation of true allotment sites from those used for other purposes, but this was largely overlooked.

- 18 Clearly in the light of these concerns and response to the report, time was needed to consider how the ESCOSC recommendations and feedback received could be responded to. Covid has impacted on this process, not all in a negative way however, as demand for allotments and waiting lists for sites have grown (currently a total of 2,300). Considerable work has been done by the service in identifying and separating out “non-allotment sites” as well as implementing non-policy areas of the recommendations.
- 19 The remainder of this report sets out the detailed response to ESCOSC recommendations, provides updated tenancy agreements in fulfilment of these, but sets out exclusions for “non allotment” sites, flexibility for Associations in its application, ensure smooth transition, and finally covers the recent new investments that would help support this process.

### **Detailed Response to ESCOSC Recommendations (summarised in bold)**

- i **Keeping of large animals such as horses on allotments to be curtailed with a transition period of five years.** It is recognised that the practice of keeping large animals on the site conflicts with the primary purposes of allotments, namely for the cultivation of crops, and it also raises a wide range of issues including animal welfare. The service has already on its own sites or working with Associations taken opportunity when a grazing plot has been vacated to return it to cultivation.

The implementation of this recommendation would include safeguards for those sites that have long traditions of keeping these animals.

These balanced measures include:

- excluding all sites that may be more appropriately considered as smallholdings these are included in a list of excluded areas (with various other uses) detailed in Appendix 7;
- allowing for freedom and flexibility to Allotment Associations with agreement from the Council to temporarily designate part of their site currently utilised for

large animals, to remain, however this would be controlled and not expand. Takes account that several grazing areas are located on the edge of what are mainly cultivated allotment sites and are proposed to be managed going forward as grazing for which there has been a long history;

- to ensure that a transition period of five years applies for those remaining tenants, and support is given in establishing other more appropriate grazing land;
- alongside the above measure to ensure a programme is in place for recording of all large animals on plots and working with appropriate agencies regarding their welfare.

ii **All County Council allotment sites overseen by one service team.** This is accepted in full, with the two sites from Assets (for historic reasons) being transferred to the allotment service.

iii **A review of the Allotment sites not used for the purpose, listed as allotments but currently garages, gardens or other uses including uncultivable ground.** This is accepted in full, and considerable progress has been made, which will help to provide the safeguards the policies apply to cultivated allotment sites.

iv **Area allotment associations where appropriate be encouraged to take over day to day management and control.** This is accepted in full, there are considerable benefits to this approach, and the Council already has 55 of its sites self-managed by Associations.

In furtherance of this recommendation, respond to feedback and to encourage more Associations, greater freedoms and flexibilities are proposed as detailed in Appendix 6. These provide for:

- a. A core set of tenancy clauses that will apply universally across all of DCC's allotment sites and in addition:
- b. A supplementary set of tenancy clauses that will provide Associations with flexibility to determine major aspects of their tenancy agreement.

Furthermore, there may be circumstances where the Association is able enough, and the Council confident enough that a long-term lease is provided, with safeguards they can only be used as allotments. These arrangements would be agreed by the Council on a case-by-case basis subject to an assessment of mutual

benefits and coordinated through the Community Asset Steering Group.

- v **Town and Parish Councils be engaged regarding potential to take over management of allotment sites.** This is accepted in full, as it is felt there is an opportunity to expand on the seven sites currently leased to Towns and Parishes

From approaches made in the last few years no Town and Parish Councils have taken on any of the sites situated in their boundaries. Further engagement is planned regarding this.

- vi **Publicise the co-workers register and reconsiders process of allocation of plots.** This is accepted in full, and indeed the service has undertaken considerable work in this regard

- vii **Considers the feasibility of providing smaller sized allotment plots where appropriate.** This is accepted in full, and indeed as opportunity has arisen has already been achieved as and when plots become available currently.

As part of new investments, the Council has established a maintenance team which will bolster opportunities for dividing plots and help also to bring waiting lists down on some sites.

- viii **Review allotment rents.** This is accepted in full and whilst the priority over the coming year will be the implementation of the investment agreed for this fiscal year and implementation of the policy and transition rules. will be undertaken within three years taking into consideration the feedback received as part of the ESCOSC consultation.

- ix **Review progress within 6 months after the report to Cabinet.** This is accepted in full.

## **Updated Policy, Tenancy Agreements and Transition**

20 The Council currently operates a number of Tenancy arrangements for its allotments. Whilst a standard countywide agreement is in place, it is issued to new tenants only and existing tenants will hold the agreement from their former District.

21 The ESCOSC report highlighted the need for a consistency in approach and a standard policy and tenancy agreement which incorporates all recommendations is included in this report. This is attached at **Appendix 3 & 4**. Whilst many of the existing tenancy agreements do not vary significantly from one another, this standard agreement clarifies the position. The following is highlighted:



- allotments provided for County Durham residents only;
- a minimum of 50% of the plot dedicated to cultivation of crops (this can be inclusive of greenhouse space);
- no large animals and small animals (hens, rabbits, geese pigeons) by permission only from Council or Association, with animal welfare requirements and standards met;
- no permanent kennelling of dogs on the plot, and no beehives without prior consent;
- no waste materials brought on site unless for reuse purposes (e.g. water collection) within a 12 month period.

22 Whilst the vast majority of tenants will be unaffected by these changes, it is recognised for those who are, may take time to adjust. For this reason, detailed transition arrangements have been developed, detailed in **Appendix 5**.

### **Burning on Allotments**

23 Whilst not included in the ESCOSC report and Tenant consultation the issue of fires on allotments is an issue that is frequently raised, especially by residents that may border an allotment site. Current tenancy arrangements allow for burning of materials generated on site, but in a responsible way, in that it is contained and done at times and frequency that does not cause a nuisance.

24 Whilst there is a long tradition of this, it may encourage materials being brought on site, is polluting to the local atmosphere, especially with inorganic materials and it is hard to control the nuisance aspect which can arise. Some areas of the country have banned fires outright and encourage (for organic materials) composting facilities.

25 Whilst burning is allowed in the updated tenancy arrangements (under certain conditions), it is proposed to further engage with tenants, associations and other interest groups, examining the areas where problems have arisen, exploring best practice and reporting back options for further consideration.

### **Recent Investments and Financial Support for Improvements**

26 The recent Council budget agreed additional funding for allotments, this included £360,000 recurrent revenue and £250,000 capital. The revenue has been reduced by £69,000 to contribute to a balanced budget in MTFP13.

- 27 The additional revenue has seen the employment of four additional allotment staff. These will be crucial in supporting the changes and improvements outlined in this report. Their role will enhance the engagement with site tenants and community managed facilities (e.g., associations) along with ensuring the updated policy is implemented. These staff have started between July and October following several rounds of recruitment.
- 28 Three additional directly employed maintenance staff have also been recruited to provide practical support with their priorities initially to get on top of the backlog of maintenance including:
- strimming and bringing vacant plots back into use quicker;
  - fencing work including splitting plots;
  - coordinating contractors to bring plots back into use;
  - coordinating delivery of road plainings & compost.
- 29 Other priority areas of spend required through contractors include waste removal from plots and dilapidated buildings, splitting plots including new fences and gates as appropriate and improving access routes and perimeter boundaries.
- 30 The additional resource (staff) is helping with the visibility and engagement on sites, they are also finding anomalies created through reduced visits. As an example, we are liaising with 2 community led sites where they have let plots to individuals who are not on the waiting list who have then become committee members.
- 31 A £250,000 capital has been developed to incentivise the development of new community groups along and with allow a bidding process for existing groups (associations) to improve facilities on their sites, for instance drainage, bringing plots back into use, tools and equipment sharing schemes, pathways and fencing. It is proposed that it is a minimum of £500 and £5,000 per site and open for bids twice per year and can be matched against other community sources.

### **Outline Delivery Plan and Next Steps**

- 32 Whilst recruitment of staff for the allotment service, as well as the maintenance team for local improvements have been a crucial first step, there remains work to be done in fulfilment of the recommendations in this report. These measures include:

- (a) Updated policy and engagement with all tenants setting out the proposals in this report. As part of this attention would be given to:
- engaging with existing Associations, confirming the core tenancy arrangements and the flexibility for their own sites;
  - confirming the “non-allotment” sites for exclusion from these changes;
  - explaining the transition arrangements in place and support and respond to any individual queries on a case-by-case basis;
- (b) Launch a scheme for increased devolution and improve community group (e.g., association) ownership with a capital grant scheme that allows for new community groups and improvements to existing sites;
- (c) Engage with Town and Parish Councils, regarding the potential transfer of sites to their responsibility;
- (d) Over the next three years to undertake the following:
- (i) the review of rents consistent with ESCOSC recommendations;
  - (ii) a review of burning waste on allotments with a future report considering the options;
  - (iii) conclude the review of non-allotment sites, considering how they should be managed going forward, and options around disposal;
  - (iv) review the supply of allotment and the waiting lists to determine the future need of expanded/ new sites.

### **ESCOSC November 2022 feedback**

- 33 The details in this report were shared with ESCOSC in November 2022, this was important following its original input and report to Cabinet in January 2020.
- 34 A copy of the ESCOSC feedback can be found at **Appendix 8**. Overall, the ESCOSC was pleased to hear about the progress following its recommendations and the investment initiatives to support these community assets.
- 35 There were two areas of future focus that were raised:

- (a) concern about allotment sites that were used for non-allotment purposes (eg garages) and that they should be paying for their true purpose.

Further work will start in this area with the transferring those non statutory allotments sites that have alternative uses to colleagues in Corporate Property and Land who will review the agreements appropriately;

- (b) a strategy was also suggested regarding new allotments sites.

Further work will be undertaken on this noting that where demand exists, building on the proposals for Town and Parish Engagement as the first responsibility in legislation would fall to this tier of local Government where a Parish exists.

### **Background papers**

- Proposed updated allotment policy and tenancy agreement.
- Proposed transition rules for the implementation of the updated allotment policy and tenancy agreement.
- List of designated allotment sites that are largely not currently used for allotment purposes.

### **Other useful documents**

None.

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## **Appendix 1: Implications**

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### **Legal Implications**

The County Council inherited its allotments from the former District Councils at Local Government Reorganisation in 2009. Many of these sites, if originally developed for the long-term intention of allotments, are considered statutory and cannot be disposed of without approval from the Secretary of State. This report does not alter their status, although future reviews and disposals would be required to follow statutory procedures.

The Local Government Act 1972 identified that the lowest tier of government in an area is responsible for providing them, for County Durham this would mean Town and Parishes where they exist. To support this, Local Government (Parishes & Parish Councils) Regulations 1999 introduced a requirement that land held by higher tier authorities should transfer to lower tier authorities set up after that date. However, it did not extend that requirement to sites run by higher tier authorities in areas with a lower tier authority that was established before 1999. The proposals in this report include engagement with Town/Parish Council's regarding the potential for transfer which would be consistent with these regulations.

### **Finance**

There are several implications that come from this report.

- (a) Increased revenue (£360,000) has been made available to invest in the management and maintenance of the sites. This has supported appointment of four additional staff and a small maintenance team.
- (b) Capital investment has been made available (£250,000) to encourage greater devolution and improve community run sites. Approval for expenditure is sought as part of this report.

### **Consultation**

Full Public Consultation has been carried out and considered in the report, further consultation will happen on a local level for the sites that are not currently being used for allotment purposes.

Consultation on changes to burning waste is likely in the future.

### **Equality and Diversity / Public Sector Equality Duty**

None.

## **Climate Change**

Growing food at a local level using the natural resources promotes reduced food miles and trips to the shops so positively contributing to reversing the impacts of climate change.

## **Human Rights**

None.

## **Crime and Disorder**

None

## **Staffing**

Increased staffing from the investment is currently underway.

## **Accommodation**

None.

## **Risk**

There is a risk that the proposals and safeguards in this report are not widely understood and therefore resisted, resulting in a similar reaction to that when the ESCOSC report was first produced. It is proposed that this report be accompanied by active engagement with Associations and Tenants to explain these changes.

There may be risk of disagreement regarding the potential for transfer of allotments to Town/Parish Councils, however this may be reduced by constructive engagement and specialist advice, and consideration of the resources that may be transferred.

## **Procurement**

None.