



Allotments

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- This note describes the law on allotments, including some issues that frequently arise. The [National Society of Allotment and Leisure Gardeners Ltd](#) has a very useful website and is the main centre of allotment expertise.
- The law on allotments appears in several Acts of Parliament, some more than a century old.
- The *Small Holdings and Allotments Act 1908* imposed a duty on councils – which remains in force - to provide allotments if six or more people say that they want them. However, there is no time limit and many people would have to wait decades to obtain an allotment.
- Building on statutory allotment land is only allowed when the allotment holders are offered alternative sites.
- Despite these controls, many people have asked for the provision of more allotments to satisfy demand.
- The Government argues that the neighbourhood planning regime, for which the Localism Act makes provision, could lead to many new allotments.

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1 Background on allotments

As early as the 18th Century, there was considerable interest in the provision of smallholdings to relieve poverty, but this concern was concentrated upon the rural poor right through the 19th Century. There were some private initiatives to provide allotment gardens on the outskirts of cities, such as Birmingham, but these were usually more to provide leisure activities for the labouring class than to relieve poverty. Most allotments were small and more appropriate as urban recreation than to support the rural poor. In 1887 it was estimated that around two thirds of allotments were under a quarter of an acre (the so-called garden allotments) and only 9% above one acre¹.

There was huge demand for allotments in the early years of the century, backed by legislation in 1907, requiring local authorities to supply them if demanded. By 1913, there were 600,000 allotments in England and Wales. During the War, large amounts of unused urban land were requisitioned to provide allotments to increase food supply, and by 1918 the number had risen to 1,500,000. Of course, the requisitioned land had to be returned after the War, but there was a huge demand for allotments, partly from returning servicemen who found it hard to re-enter civilian life. Legislation in 1925 required the need for allotments to be considered in every town planning scheme, and required that land purchased or appropriated by a local authority must not be disposed of or used for another purpose without ministerial consent.

The number of allotments fell in the 1920s as the requisitioned land was returned to its former owners, but in the early thirties there was strong support for allotments for the unemployed, including some provision of allotments for the keeping of animals. On the outbreak of the Second War, there were almost 60,000 acres of allotments (about 570,000 individual plots) in urban areas of England and Wales, and 50,000 acres providing some 170,000 plots in rural areas². In wartime, there was another campaign to requisition land for extra food production, which was a great success.

Since 1945, allotments have increasingly been gardens for urban dwellers. The *Allotments Act 1950* restated the requirement that local authorities should have a duty to provide garden allotments, but left out the farm allotments for the rural poor, which are therefore no longer legally protected in this way.

Despite extensive legal protection for allotments and legal requirements that they be provided, there is a considerable shortage of allotments. A report in 2010 estimated a waiting list of as much as 40 years in some areas.³

2 The Law on allotments

Parts of the *Small Holdings and Allotments Act 1908*⁴ are still in force. In particular, section 23 of this Act lays a duty on certain councils to provide allotments.

¹ *Report of the Departmental Inquiry into Allotments*, October 1969, Cmnd 4166, p 15

² *op. cit.* p.19

³ "Growing craze for The Good Life", *Daily Express*, 22 May 2010

⁴ The 1908 Act consolidated and restated the provisions of the 1907 Act, which marked the real change.

23(1) If the council of any borough, urban district, or parish are of opinion that there is a demand for allotments...in the borough, urban district, or parish...the council shall provide a sufficient number of allotments, and shall let such allotments to persons...resident in the borough, district, or parish, and desiring to take the same

23(2) On a representation in writing to the council of any borough, urban district, or parish, by any six registered parliamentary electors or [persons who are liable to pay an amount in respect of council tax] resident in the borough, urban district or parish, that the circumstances of the borough, urban district or parish are such that it is the duty of the council to take proceedings under this Part of this Act therein, the council shall take such representation into consideration.

Where the population of a district or parish, according to the last published census, is under 10,000, the council's duty is limited to the provision of allotment gardens [*Allotments Act 1950 s9(a)*]. Where the population is 10,000 or upwards, the council's obligation is limited to the provision of allotment gardens not exceeding one-eighth of an acre [*Allotments Act 1950 s9(b)*].

The council may improve the allotment land, but is under no statutory obligation to provide a particular level of services such as water or electricity.

Councils can build on allotment land if they provide alternative sites. Section 8 of the *Allotments Act 1925* states that:

Where a local authority has purchased (or appropriated) land for use as allotments the local authority shall not sell, appropriate, use or dispose of the land for any purpose other than use for allotments without the consent of the Secretary of State for the Environment and such consent (may be given unconditionally or subject to such conditions as the Secretary of State thinks fit, but) shall not be given unless the Secretary of State is satisfied that adequate provision will be made for allotment holders displaced by the action of the local authority or that such provision is unnecessary or not reasonably practicable,

In most cases, allotment holders are persuaded not to object by being offered better sites after the move. In case of disagreement, the Department has been willing to consider a local authority's view that no suitable sites are available within the required area.

There are also various detailed provisions as to the tenants' rights on termination of an allotment tenancy, covering, for example, compensation for growing crops or fruit bushes.⁵

Sometimes allotment holders face a sharp increase in charges. They should have a written agreement with the local council, and that might contain relevant conditions. There is a set of model agreements which the Ministry of Agriculture produced.⁶ However, local authorities do not have to follow this model. In any case, the model does not contain anything relevant about the appropriate level of rent. An earlier version required that rent should be on the basis that the land is used for allotments - meaning, in other words, that it should not be charged at the much higher rate that might be appropriate for land otherwise.

Defra produces an annual report on smallholdings with details of volume of land let as smallholdings etc.

⁵ G.Sandys-Winsch, *Garden Law*, 1982 pp. 175 - 185

⁶ Reprinted in *Butterworth's Encyclopedia of Forms and Precedents* (5th ed) Vol 2

The Environment Select Committee reported on allotments in 1998, calling for urgent action to protect existing allotment sites.⁷ They argued that allotments legislation should be overhauled, including removal of the restrictions on the uses to which allotments may be put. The Labour Government rejected the call to consolidate the legislation.⁸

3 Government Policy 2012

In March 2012, the Government explained what it was doing to encourage allotments:

Tim Farron: To ask the Secretary of State for Communities and Local Government what plans his Department has to ensure parish and town councils which wish to provide allotments for residents are able to do so.

Andrew Stunell [holding answer 19 March 2012]: The Government recognise that allotments are valuable green spaces and community assets providing people with the opportunity to grow their own produce as part of the long-term promotion of environmental sustainability, health and well-being, community cohesion and social inclusion. All councils, with the exception of inner London authorities, but including parish and town councils have a duty to provide allotments. Section 23 of the Small Holdings and Allotments Act 1908 places a duty on local authorities including parish councils (except for inner London boroughs) to provide allotments where they perceive a demand for them in their area. There is however no time constraints within which to provide land.

In March 2010 DCLG published 'A Place to Grow' to help local authorities minimise the length of time an individual has to wait before getting an allotment plot. It also contains guidance on the better management of existing plots, for example reducing plot sizes and taking action in cases where plots are not being cultivated and is available to local authorities on the LGA website at:

<http://new.lga.gov.uk/lga/aio/9027597>

We are working with a range of partners to promote the importance of allotments and to encourage and support local authorities to make more allotment land available. And significant progress has been made. The 2011 Survey of Allotment waiting lists in England shows that new allotment sites were brought into use by 31 councils (compared with 17 councils in the 2010 survey) with the total number of plots on these new sites being 939.

New neighbourhood planning provisions in the Localism Act also provide communities with a means to boost the number of sites with powers to protect existing allotments and identify new plots.

The Community Right to Reclaim Land will help communities to find space for food growing by making information about land owned by public bodies more easily available and help to ensure that under-used or unused land owned by public bodies and some other organisations is brought back into beneficial use.

Alongside the 'How to' guide that my Department published at the end of August, providing advice for communities interested in creating or cultivating community orchards:

<http://www.communities.gov.uk/news/newsroom/1973439>

⁷ The Future for Allotments, Environment, *Transport and Regional Affairs Committee* 1997/98 HC 560

⁸ DETR, *The Government's Response to the Environment, Transport and Regional Affairs Committee's report, The Future for Allotments*, September 1998, Cm 4052

we will be developing a similar guide for individuals and communities interested in finding and developing space for food growing.⁹

Some PQs on allotment issues covered specific points in January 2012

Asked By Baroness Sharples

To ask Her Majesty's Government what plans they have to ensure that the provision of allotments is sufficient to meet demand.

The Parliamentary Under-Secretary of State, Department for Communities and Local Government (Baroness Hanham): My Lords, it is local authorities that have a duty to provide allotments. Nevertheless, the Government are working with voluntary and community sector organisations, including the Federation of City Farms & Community Gardens, the Allotments Regeneration Initiative and the National Society of Allotment & Leisure Gardeners, to promote the importance of allotments and to encourage and support local authorities and other landowners to make more land available for food growing.

Baroness Sharples: With a countrywide shortage of plots and a growing list of applicants, who in some cases have waited many years, does my noble friend know why councils do not follow the good example of Christchurch in Hampshire, which is developing an allotment strategy consultation to help everyone concerned?

Baroness Hanham: My Lords, I am sure they can do that without any intervention from Parliament. As I said, local authorities are responsible for the provision of allotments and for encouraging their own communities to look at the sort of strategy that the noble Baroness has suggested.

Lord James of Blackheath: My Lords, is the Minister aware of the undertaking given by the previous Government when a similar Question was asked, to the effect that they would stop the practice of councils dumping contaminated soil on allotment land and then renting that land out to handicapped people who are not in a position to resist? Will the Minister move immediately to stop this outrage?

Baroness Hanham: My Lords, the noble Lord has raised a point on which I am not briefed. I am bound to say that it goes a bit wider than I had expected. However, if that is happening and it is true that local authorities are dumping contaminated soil on allotments, that is an outrage because people are growing vegetables and produce for eating. I will make some inquiries and come back to my noble friend.

Baroness Parminter: Given the huge benefits to individuals and communities of food growing and the welcome explosion in interest in doing so, does the Minister believe that the final form of the national planning policy framework, unlike the draft, should recognise the key role of local authorities in promoting food growing?

Baroness Hanham: My Lords, the final form of the national planning policy framework is still being realised. Of course, the Localism Act contains a number of provisions that would help local communities to do precisely what the noble Baroness has suggested. There is a community right to challenge, so voluntary and community bodies can challenge on bits of land to suggest that they take them over. There are the neighbourhood planning provisions, where local neighbourhoods can come together and identify land for use that they think is sensible, and allotments might come under that. There is also the community right to buy, where again local communities can

⁹ HC Deb 20 March 2012 c649W

identify land that they consider to be an asset and if it comes up for sale they are in a position to make a bid for it.

Baroness Gardner of Parkes: Will the Minister tell me whether there are many problems such as the one in my village, where the allotment holders were encouraged to grow everything without any water supply? They did so successfully for many years. However, as we have had a few very dry years it has not been possible recently. Now they want to put in a water supply, and apparently, in order to make it practical for the allotment holders to fund the water supply, they need a long term lease on the property, which I believe is owned partly by the local church. However, the lease is not the main issue, but rather a total disagreement about who should provide water to an allotment.

Baroness Hanham: My Lords, again, the question put by the noble Baroness is quite localised, because I suspect that there are some allotments which are provided with water. That must be a matter for the local authority to which she refers, and I should think that the allotment holders would be in a very strong position to ensure that they received or found that water.

Baroness Howe of Idlicote: My Lords, given the importance we all clearly give to the growing of food and the knowledge of how food is grown, could the Minister give us any indication of how many schools have allotments, and whether there are many others that are preparing to follow their example?

Baroness Hanham: My Lords, I cannot give an exact reply to the noble Baroness about numbers. There is, however, strong encouragement for schools not only to work allotments but to have their own facilities in their schools to encourage children to grow food, and many schools do that. Defra is already encouraging that. There is a strong element of enthusiasm and encouragement to make sure that schoolchildren understand where food comes from, and that it does not just come out of a plastic packet.

Baroness Royall of Blaisdon: My Lords, clearly this is principally a matter for local authorities, but there is a great deal of best practice to be spread, and I am sure that both the Government, the Opposition and all members of this Chamber can assist in spreading best practice. I am very proud to be a patron of Thrive, a charity which works with disabled people and gardening, and encourages them to have healthy lifestyles and gardens. I would encourage not only the Minister but all Members of this House to get out and spread best practice, because in these straitened economic times, eating healthily and health and well-being are of the utmost importance.

Baroness Hanham: My Lords, we can certainly agree with all that the noble Baroness has said, and I congratulate her on giving so much support to this particular aspect.

Baroness Jenkin of Kennington: My Lords, I wonder whether the Minister is aware of schemes such as Landshare, which, in places where allotments are scarce, are a tremendously useful resource. Those who have additional land that they can no longer manage themselves are encouraged to advertise it on a website, so that local people can come and dig it over and use it themselves, thereby expanding the use of land whose owners can no longer manage it.

Baroness Hanham: My Lords, that is an extremely good scheme. Of course, one of the things that may affect that is the nature of the agreement with the local authority, if that is who owns the plots, as to how they can be used. There are already examples of land being subdivided, and plots being subdivided where people find them too large. That is excellent, because it means that more people can get involved.

Baroness McIntosh of Hudnall: My Lords, although of course I accept that this is largely a local authority matter, does the noble Baroness agree that allotments in cities are a very important part of the overall urban ecology, and that there are often small plots of derelict land which could be made available? Will she encourage local authorities in cities to view the possibility of small amounts of land being turned over to food production where there is a local community willing to set them up?

Baroness Hanham: My Lords, that takes me back to an earlier reply. In future, under the Localism Bill, as regards plots of land such as the noble Baroness has described, if local communities think that that would be a good use for them, they can identify that and, under neighbourhood planning, make sure that that happens. I do not think that there is anything against what the noble Baroness has put forward. Indeed, there should be a lot of encouragement for it. However, land in London is very expensive.¹⁰

4 Neighbourhood planning could create new allotments, 2011

In May 2011 the DCLG argued that the neighbourhood planning could lead to more allotments. The *Localism Bill* (now the *Localism Act*) would provide for that regime:

New community powers giving people rights to shape development in their neighbourhood could provide a bumper crop of allotments, Planning Minister Greg Clark announced today.

There is a growing interest from the green fingered wanting to grow their own fruit and vegetables but sites are becoming increasingly scarce. Research commissioned but unpublished by the previous Government that has been put online today reveals that in the period 1996 to 2006 the number of allotment plots fell by 50,630.

This legacy of decline has made it increasingly difficult for people to live the good life. Today 59 people are waiting for every 100 plots in contrast to 1996 when there was an average of 4 people waiting for every 100 plots.

The Government is committed to turning this situation around and ensuring that allotments remain available to communities for years to come.

New neighbourhood planning powers currently being trailed across the country provide communities with a means to boost the number of sites with powers to protect existing allotments and identify new plots. In addition requirements for councils to provide allotments will be safeguarded as part of a wider review into reducing statutory burdens on local authorities.

The new right for communities to create a neighbourhood plan is being introduced in the Localism Bill. It will allow local people to set out the exact locations of sites that can be used for new allotments and those sites they want protected in the future. Once a neighbourhood plan had been independently assessed and passed by the community in a local referendum, a council will be obliged to adopt the plan.

¹⁰ HL Deb 16 January 2012 cc638-9

Mr Clark said:

"More and more people want to grow their own vegetables but sites are becoming unnecessarily difficult to come by. We need to stop this decline in allotments especially as people are so eager to enjoy the fruits of their labour.

"People who get behind Neighbourhood Planning and develop a plan have real powers to not only protect existing sites but create more plots for the whole community to enjoy."

Donna McDaid, National Secretary of the National Society of Allotment and Leisure Gardeners said:

"It is great news that people can now help ensure allotments remain available to communities for years to come. We are always being told to be environmentally friendly and to reduce our carbon footprint wherever we can and allotments can go a long way in helping us achieve that.

"There is growing interest in community grown food, and allotments have an important role in providing space for groups to grow their own produce."

About 300,000 people are already using allotments, which have an important role to play in helping to reduce carbon emissions. The combined plots in England and Wales are capable of producing more than 240,000 tons of food. The same amount of imported produce is equivalent to 116 journeys by 40 ton articulated lorries each week.¹¹

¹¹ DCLG Press Release, *New powers for the green fingered to protect allotments*, 7 May 2011