

Summary Sheet

Name of Committee and Date of Committee Meeting

Cabinet and Commissioners' Decision Making Meeting – 9 July 2018

Report Title

Allotments Self-Management

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Damien Wilson, Strategic Director of Regeneration & Environment Services

Report Author(s)

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Ward(s) Affected

All

Executive Summary

The Council and Rotherham and District Allotments Association have worked together to review the current allotments service and explore possible alternative service models to drive long-term improvement. This recognises the pressure the service has been under since 2011 due to reduced public spending. The Review has gathered evidence to support the assessment of options, including a survey of existing plot-holders, an audit of Council-owned allotment sites, and information about management models in place elsewhere in Britain. Consequently, the Review has concluded that the adoption of a self-management model offers best prospects for service improvement and involving allotment users more in this.

Recommendations

1. That the Council be recommended to adopt a new vision and specification for allotments, as proposed in this report.

2. That the Council be recommended to approve the transfer of management of council-owned allotments to a new borough-wide self-management body, and authorises officers to work with Rotherham and District Allotments Association, Voluntary Action Rotherham and others to establish a Community Benefit Society for this purpose.

List of Appendices Included

Appendix 1 Allotments Plot-holder Survey Findings

Appendix 2 Allotments Site Audit Results

Appendix 3 Preferred Self-Management Model

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Overview and Scrutiny Management Board – 4 July 2018

Council Approval Required

Yes

Exempt from the Press and Public

No

Allotments Self-Management

1. Recommendations

- 1.1 That the Council be recommended to adopt a new vision and specification for allotments, as proposed in this report.
- 1.2 That the Council be recommended to approve the transfer of management of council-owned allotments to a new borough-wide self-management body, and authorises officers to work with Rotherham and District Allotments Association, Voluntary Action Rotherham and others to establish a Community Benefit Society for this purpose.

2. Background

- 2.1 The Council's Culture, Sport and Tourism Service manages 30 allotment sites, including 13 that are leased to allotment societies, 13 that are directly managed, and 4 that are currently inactive. There are 1,107 plots in total across these sites, of which 592 are on society sites, and 515 are on directly-managed sites.
- 2.2 In recent years there has been a need to manage the service within increasingly limited resources. This has involved a series of above-inflation rent increases generating additional income that has allowed a gradual reduction in Council subsidy. The replacement of core funding with the income from increased rental fees has enabled the Council to deliver a saving without reducing the operational budget for the service since 2012/13. These fee increases have been a concern within the allotment community, as they may make the activity less attractive and affordable for some, and could reverse recent growth in the number of allotment gardeners.
- 2.3 Nationally and locally there is growing interest in the potential role of mutual and co-operative approaches in the future delivery of services. Additionally, the Council is committed to developing Neighbourhood Working to achieve improved efficiency and more responsive services built on greater local accountability and engagement.
- 2.4 Consequently, the Council has undertaken an Allotments Review with the following aims:-
 - assess strengths and weaknesses of the current service;
 - define a sustainable vision and specification for what the service should be, including financial self-sufficiency, opportunities for investment and allowing users a greater say in how allotments are managed and operated;
 - identify and evaluate possible alternative service models, including mutualisation;
 - recommend a preferred option for future service delivery;
 - develop an action plan for the implementation of any changes recommended by the review.

- 2.5 The Rotherham and District Allotments Association (RaDAA) has embraced the opportunity to engage with the Council to jointly review how the allotment service is managed, and what steps might be taken to overcome current challenges, including remodelling the service to secure the best possible outcomes for allotment users within the limited available resources.
- 2.6 The Review focuses on the Allotment Service provided by the Culture, Tourism and Sport service of the Council and does not include sites and services provided by Parish Councils or others. It includes sites managed directly by the Council, as well as those leased by the Council to allotment societies who then sub-let plots to individuals.
- 2.7 The Review has proposed a new vision for allotments, as follows:-
“Rotherham’s allotments will allow and encourage people of all backgrounds and abilities to enjoy gardening in safe, secure, accessible and sustainable surroundings, and will make efficient use of available land and resources to ensure that the service is financially self-sufficient whilst being affordable to those who want to use it.”
- 2.8 The Review has also developed a specification to describe what a good allotments service should look like, as follows:-
- Provide sufficient land for allotments
 - Ensure sites are safe and secure, and have well-maintained facilities and infrastructure
 - Manage tenancies efficiently, including letting vacant plots quickly
 - Communicate with plot-holders and allow them to be involved in key decisions
 - Promote benefits of allotment gardening to the wider population
 - Ensure financial probity, and compliance with all relevant laws and regulations

3. Key Issues

- 3.1 A combination of above-inflation rent increases and revenue and capital resource limitations affecting the quality of the allotment service delivered by the Council has caused concern amongst many tenants, and prompted consideration of new ways to achieve service improvements within available resources.
- 3.2 Analysis of consultation results and information from other local authority areas suggests that self-management offers a number of benefits, including more efficient plot-letting, fewer overgrown vacant plots, increased rental income, faster response to site issues, better communication with individual tenants, increased efficiency through use of volunteers, ability to access external funding, and scope to harness the enthusiasm, experience and local knowledge of volunteers to promote allotment gardening and to build capacity amongst fellow gardeners. Further information about allotment user consultation is given in Appendix 1.

- 3.3 An audit of allotment sites has identified a significant amount of improvement work that would be needed to bring some areas of land into a usable condition, and to bring security, access, buildings and other site infrastructure up to a good standard. This is one of a number of risks of self-management discussed in Section 13 of this report. Further information about the allotment site audit is given in Appendix 2.

4. Options considered and recommended proposal

- 4.1 **Option 1.** Continue with the existing model in which the Council leases allotment sites where there is sufficient capacity and interest amongst allotment gardeners to form and sustain societies, and manages other sites directly.

Whilst this is a low-risk option, as it continues a tried and tested approach, it would not address the current difficulties the Council has in improving service standards within available resources, neither would it protect against the risk of continued service pressures as the Council has to find further budget savings.

- 4.2 **Option 2.** Appoint a commercial contractor to manage allotment services on behalf of the Council.

This might bring some benefits where a contractor is able to draw on company-wide expertise and resources to drive improvement. However, it is unlikely that it would be a viable option in Rotherham because the commercial value of a contract focussing solely on allotments would be very small, and therefore unlikely to allow firms to commit the resources necessary to deliver sought-after improvements. Additionally, it would not increase the level of self-management.

- 4.3 **Option 3.** Develop a new model involving the creation of a new borough-wide self-management body, capable of employing staff, whilst also allowing existing allotment societies to continue to manage individual sites. A Community Benefit Society would be a suitable legal form for such a body. Further details of how this arrangement would work are given in Appendix 3.

This option would spread the benefits of self-management across all allotment sites. A borough-wide body would enable efficient and joined-up working and provide a stronger, more unified voice for allotments in Rotherham.

- 4.4 **Recommended proposal.** Option 3 responds to the particular circumstances and issues identified by the Allotments Review. It is judged to offer the best prospects for the achievement of the agreed vision and specification for an allotments service. It is therefore recommended as the preferred option. This report refers to the proposed borough-wide self-management body as the 'Allotments Alliance', although this is just a working title.

5. Consultation

- 5.1 Rotherham and District Allotments Association (RaDAA) is a well-established body whose membership comprises allotment societies within the Rotherham area, including those that lease sites from the Council. The Review Project Team has included representatives of RaDAA, allowing them to be part of detailed discussions of the findings and conclusions throughout the process.
- 5.2 Extensive consultation with allotment plot-holders has also been carried out as part of the review. A total of 1,077 questionnaires were sent out, generating 282 responses (26.2% return rate). Evidence from this has been central to the identification of improvement priorities. See Appendix 1 for details.
- 5.3 Officers in Legal Services, Finance, Human Resources and Performance, Policy and Improvement have been consulted on proposals arising from the review.
- 5.4 Voluntary Action Rotherham (VAR) has been made aware of the Review and the proposal to adopt a self-management model. They have confirmed that they will be able to provide appropriate advice and support to those involved in developing detailed proposals for an Allotments Alliance. Specialist advice, e.g. HR and TUPE, may have a cost attached.
- 5.5 The National Allotment Society has been consulted on the proposal. They have indicated their support for the principle of self-management, and have advised on the various legal forms that a new allotments body might take. They have also expressed a willingness to provide further support and advice during the implementation of the recommendations of this report.
- 5.6 Staff from the Council's Green Spaces team, including the current Allotments Officer have contributed to the review process and have been involved in discussions about the existing service and possible alternative models.

6. Timetable and Accountability for Implementing this Decision

- 6.1 The Assistant Director, Culture, Sport and Tourism will be accountable for implementing this decision. The Leisure and Green Spaces Manager will lead the formation of a Shadow Management Committee involving allotment user representatives working with Council officers to develop and implement detailed arrangements for a new Allotments Alliance.

6.2 The anticipated timescale for implementation is as follows

- July 2018 - Cabinet Decision to establish borough-wide self-management body for allotments service
- July 2018 - 'Allotments Alliance Shadow Management Committee' formed
- July 2018 to January 2019 - Shadow Management Committee develops Lease Heads of Terms, Society Objects and Rules, and prepares for transfer of tenants' personal data to new body in accordance with General Data Protection Order.
- January to March 2019 - Preparation and submission to Financial Conduct Authority of registration application.
- March 2019 - Allotments Alliance formally established
- April 2019 - Transfer management of council-owned allotments to Allotments Alliance

It must be noted however, that this is an ambitious timetable and may be subject to change as the process to roll out the preferred option is implemented.

7. Finance and Procurement Implications

- 7.1 The income received from rents is currently less than the costs incurred in delivering the service. Rent increases of 2.2% and 3.0% have already been agreed for 2018-19 and 2019-20 respectively by the Cabinet and Commissioners' Decision Making meeting, as it is a legal requirement that allotment rents are set 12 months in advance.
- 7.2 If the proposed self-management model is adopted, then all costs and income would be controlled by the relevant bodies. Where a site is managed by an Allotment Society, then they will collect rent from individual plot-holders. A proportion of this will be used to pay rent to the Allotments Alliance allowing it to fund its activities, including the employment of staff. Where the Allotments Alliance manages sites directly, then they will collect rent from plot-holders themselves.
- 7.3 The Review has found that extensive works are required to address existing liabilities on allotment sites and to bring uncultivable areas of land to a satisfactory standard for gardening where necessary to meet demand. Whilst detailed costings for these works are not currently available, it is possible that investment of up to £1m may be required over time. All essential health and safety work is currently undertaken as required, so none of the outstanding liabilities would need to be resolved urgently. It is suggested that they should be addressed over a period of 10 years following the transfer of allotments management. The proposed model envisages that the Allotments Alliance and Societies will be responsible for prioritising future investment and securing funding for this. It is possible they may approach the Council for assistance.

- 7.4 The Allotments Alliance and Societies will be responsible for putting in place any necessary insurance cover, including Public Liability and, if appropriate, Employer's Liability insurance.
- 7.5 There will be some one-off costs associated with the implementation of a new self-management model. These cover legal costs, specialist advice and the cost of registering the new body. It is estimated that these costs would be circa £18.5k. These costs would need to be managed within the overall Regeneration & Environment budget.
- 7.6 The rules for payment of VAT on supplies will depend on how the Allotments Alliance and Societies are set up, and whether they are VAT registered. The possible impact of VAT on finances will therefore need to be considered as further details are confirmed for new self-management bodies.
- 7.7 There are no direct procurement implications arising from this report.

8. Legal Implications

- 8.1 The introduction of self-management arrangements will not affect the Council's statutory duty under Section 23 of the Small Holdings and Allotments Act 1908 to provide land for allotments.
- 8.2 It is proposed that any land acquired by the Council for allotments will be leased to the Allotments Alliance, who may then sub-let it to allotment societies. This will not affect the statutory protection of such land afforded by Section 8 of the Allotments Act 1925.
- 8.3 A range of possible legal forms for the proposed Allotments Alliance have been assessed. A Community Benefit Society is believed to be the most suitable available form, as it allows democratic decision making by its membership, it is a legal entity that can make contracts and employ people, and it limits the liability of individual members. It is also a tried and tested model and is suitable for charitable status. Further details of this assessment are given in Appendix 3.
- 8.4 New allotment societies will need to identify the most appropriate legal structure to suit their own circumstances in each case. Specialist legal advice on such matters is available from the National Allotment Society to its members.

9. Human Resource Implications

- 9.1 Two posts within the current Council staff establishment are involved in allotment service delivery. If the proposed adoption of a self-management model takes place then any posts involved in operational delivery of the allotment service will no longer be needed within the Council but there may be a case for a TUPE transfer. The Council will still need to manage the relationship with the new Allotments Alliance. Once the implications of the new model are understood, the post-holders may be at risk of redundancy.

9.2 Alternatively, depending on the activities of the Allotments Alliance and the role of any staff to be employed, the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014 (commonly known as TUPE) may apply. If TUPE is deemed to apply, this would involve the transfer of the one affected employee to the Allotments Alliance. Further advice will be needed during the setting up of the Alliance to determine any TUPE implications.

10. Implications for Children and Young People and Vulnerable Adults

10.1 Whilst the proposed introduction of a self-management model would not have any direct implications for children, young people and vulnerable adults, it is proposed that the Allotments Alliance should include at least one representative of these communities to champion their involvement in the development and use of allotments.

11. Equalities and Human Rights Implications

11.1 The agreed vision for Rotherham's allotments states that they will allow and encourage people of all backgrounds and abilities to enjoy gardening. This would need to be re-stated as one of the founding principles of the Allotments Alliance to ensure that its policies and actions are underpinned by a commitment to strive for equality and respect for people's human rights.

12. Implications for Partners and Other Directorates

12.1 There are no direct implications for partners or other directorates arising from this report.

13. Risks and Mitigation

13.1 Principal risks and associated mitigation measures are as listed below.

13.2 Lack of volunteers. The successful operation of a self-management model depends on volunteers being willing to take on positions of responsibility. If insufficient volunteers come forward then it may impair the ability of the Allotments Alliance and societies to function effectively, and increase workloads for other volunteers. Such a situation could eventually lead to the winding up of the body, as happened recently to a local allotment society.

13.3 Mitigation. Ensure support is available where necessary to help inspire potential volunteers, to promote volunteering opportunities, to deal with any problems that may occur, and to build volunteer leadership skills. The Council can help to signpost such support from organisations such as Voluntary Action Rotherham, and the National Allotment Society.

- 13.4 Lack of expertise amongst volunteers. Whilst volunteers may be able to deal with many day-to-day matters, it is less likely that they will have the breadth of knowledge and experience needed during the setting up of an Allotments Alliance, or to deal with all situations that may arise thereafter. Failure to address such issues effectively could prove costly and time-consuming, and affect the achievement of wider objectives.
- 13.5 Mitigation. Voluntary Action Rotherham has expressed a willingness to provide advice to volunteers involved in setting up and running the Allotments Alliance. Professional advice on legal and other specialist matters is available to members of the National Allotment Society. Training of selected volunteers and any staff employed by the Allotments Alliance is advisable, as this will equip them to provide support to, and mentor other volunteers across all sites as needed.
- 13.6 Inability to form Allotment Societies for individual sites. Currently, half of the active Council-owned allotment sites are managed by Societies. These tend to be larger, better-equipped sites. Elsewhere, it may be difficult to form Allotment Societies, particularly at smaller sites with few plot-holders.
- 13.7 Mitigation: The proposed model would require the Allotments Alliance to manage sites directly where a society does not exist. Proposed Area Clusters would provide a means to involve people with good local knowledge in this. If a site is too small to sustain its own Society, then it may be possible to form a Society covering more than one site.
- 13.8 Refusal of Allotment Societies to participate in the Alliance model. The operation of the Allotments Alliance including the employment of staff would depend on the income from rents covering its costs. If any Allotment Societies refuse to participate in this model and keep all the rent they collect for their own use, then it would threaten the financial viability of the Alliance.
- 13.9 Mitigation: The proposed model would require all Allotment Societies to rent sites from the Allotments Alliance. The Council would no longer lease sites directly to Societies. Thus a proportion of rent collected by all Societies would be passed on to the Allotments Alliance to allow it to operate. Societies and their members would be able to influence how the Alliance spends its budget.
- 13.10 Poor performance by self-management bodies. The introduction of a new self-management model is intended to improve allotment service standards. Whilst the Review has found that self-management normally delivers better outcomes, this cannot be assumed.
- 13.11 Mitigation: By agreeing a set of performance indicators and putting in place a monitoring system, the Allotments Alliance would be able to identify any Societies that appear to have difficulty maintaining standards, and provide support if necessary. Ultimately, the Alliance could terminate a Society's lease and take over control of the site if all else fails. The Alliance would also need to monitor and report its own performance and take action if this falls below standards agreed by its membership.

- 13.12 Improper conduct by people within self-management bodies. The transfer of control and responsibility that would come with the setting up of a self-management model may lead to the misuse of resources, fraud, individuals acting outside their authority or other misconduct. This could cause irreparable damage to people's confidence and trust in the service.
- 13.13 Mitigation. A comprehensive code of conduct must be in place for volunteers and staff working within the Allotments Alliance, and the Alliance must put in place effective measures for monitoring and enforcing this, including a whistle-blowing policy. Independent auditing of accounts will help to identify any irregularities.
- 13.14 Insufficient funds to deal with site liabilities. The Review has found that investment would be needed to bring all allotment sites up to a good standard, and to make all areas of land fit for cultivation.
- 13.15 Mitigation: It is expected that self-managed bodies will be in a strong position to develop successful bids for grant funding. Not only are they able to access funding not available to the Council, but the energy and enthusiasm of volunteers with good local knowledge will also be invaluable in making the case for funding.
- 13.16 Financial insolvency. Evidence from other areas where self-management has been adopted suggests that they can achieve savings and improved outcomes through the involvement of volunteers and more flexible service delivery. However, there is still the possibility that the Allotments Alliance could have unexpected costs that it is unable to cover from regular income, and an inability to pay staff costs and other bills could put the model at risk. Should any staff transfer from the Council to the Alliance, then possible impacts of pension liabilities would also need to be taken into account in assessing the financial viability of the new model.
- 13.17 Mitigation. Proper accounting and cost-control measures will reduce the risk of running out of money. Over time, it is recommended that self-management bodies build up reserves that can be drawn upon in times of need.
- 13.18 Breach of Council's statutory duties re allotments provision. Under the self-management model, the Council will effectively be outsourcing the carrying out of its duties to the Allotments Alliance but not the responsibility itself. This risk is largely mitigated by the fact that the Council will be part of the Allotments Alliance and will accordingly retain some influence and control, although it is not known at this stage how much. Accordingly, there remains the risk, albeit a mitigated one, that the Alliance will fail to carry out these duties thus leaving the Council liable for their failure.
- 13.19 Mitigation. The Council will have representation on the Allotments Alliance and proper reporting and monitoring procedures will have to be set up to ensure the early recognition of any problems and the powers to enforce remediation.

13.20 Programme Slippage. Due to probable complexity of work and negotiations required to reach agreement and readiness to transfer responsibility to the new body.

13.21 Mitigation. Early identification of key tasks and milestones, and provision of necessary capacity-building.

14. Accountable Officer(s)

Polly Hamilton - Assistant Director, Culture, Sport and Tourism.

Phil Gill - Leisure and Green Spaces Manager.

Approvals obtained on behalf of:-

	Named Officer	Date
Strategic Director of Finance & Customer Services	Judith Badger	22.06.2018
Assistant Director of Legal Services	Stuart Fletcher	19.06.2018
Head of Procurement (if appropriate)		
Head of Human Resources (if appropriate)		

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