



BRIERCLIFFE WITH EXTWISTLE PARISH COUNCIL

842 Padiham Road, Burnley, BB12 6NN. Tel: (07721) 078634

E-mail: Briercliffeparishcouncil@yahoo.co.uk

www.Briercliffeparishcouncil.co.uk

Allotment Self-Management Scheme

By Councillor Adam Dack

Lead Councillor for Allotments

Prepared by: Steve Watson Parish Clerk

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Background

The Parish Council has considered allowing allotment tenants to have more of a say in the running of the Allotments. A consultation on an Allotment Self-Management Proposal was carried out up to June 2018. Following agreed amendments to the proposal, a revised Allotment Self-Management Proposal was adopted by the Council in July 2018. This allowed for the setting up of an Allotment Forum consisting of Allotment and Garage Tenants. To date there have been no volunteers to set up an Allotment Forum for this purpose and management has been retained by the Full Council of Briercliffe Parish Council.

New Information

Since the approval of the Allotment Self-Management Procedure, it has come to light that some areas of this are incorrect. Under the 1908 Allotment Act Section 29, management of allotments can be transferred in its entirety to a resident self-management group. Members of the self-management group must be Parishioners and contribute towards the Parish Council Precept. Non-Parishioners may not be part of the self-management group.

The self-management group may be empowered by the Council to do anything in relation to the management of the allotments which the Council are authorised to do. The empowerment is limited to allotments only, all other decisions are taken by the Council and cannot be delegated to non-Councillors.

The 1908 Act does not give any rights or powers to tenants or residents to demand self-management, this is purely down to the discretion of the Council and the Council retains the right to remove self-management at any stage if it so grants it. The Act also does not give any powers or rights for Parishioners to demand which if any allotment decisions can be empowered to the self-management group, this again is purely down to the discretion of the Council and any decisions empowered to the self-management group can be revoked at any time without reason.

29 Management of allotments.

(1)The council of a borough, urban district, or parish may from time to time appoint, and, when appointed, remove allotment managers of land acquired by the council for allotments, and the allotment managers shall consist either partly of members of the council and partly of other persons, or wholly of other persons, so that in either case such other persons be persons residing in the locality and [liable to pay to the district or London borough council in whose area the land is situated an amount in respect of council tax.]

(2)The proceedings and powers of allotment managers shall be such as, subject to the provisions of this Act, may be directed by the council; the allotment managers may be empowered by the council to do anything in relation to the management of the allotments which the council are authorised to do and to incur expenses to such amount as the council authorise, and any expenses properly so incurred shall be deemed to be expenses of the council under this Act.

The 1908 Act

The 1908 Act Section 23(1) only permits Councils to rent out allotments to Parishioners resident in the Parish and contributing towards the Parish Council Precept.

23 Duty of certain councils to provide allotments.

(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.

The exception to this is in Section 27(5) which allows the Council the let allotments, only when it has vacant allotments and nobody on a waiting list, or nobody wishing to take on those allotments, however, non-parishioners can only be given a maximum 12 month tenancy which must be terminated if a Parishioner requires an allotment and cannot last longer than 12 months. A new tenancy under the same terms could be offered if, after the initial 12 months, there still remains nobody wanting to take on the allotment.

27 Provisions as to letting of allotments.

(5) If at any time an allotment cannot be let in accordance with the provisions of this Act and the rules made thereunder, the same may be let to any person whatever at the best annual rent which can be obtained for the same, without any premium . . . , and on such terms as may enable possession thereof to be resumed within a period not exceeding twelve months if it should at any time be required to be let under the provisions aforesaid.

Sale of Land

The 1908 Act also gives the Council the power to sell Allotment Land deemed to be no longer needed for Allotments under Section 32(1). This would permit the sale of the land at the end of Harrison Street that would not be of use as a general allotment as it is attached to a dwelling house and the only viable tenant would be the homeowner of the house.

32 Sale of superfluous or unsuitable land.

(1) Where the council of any borough, urban district, or parish are of opinion that any land acquired by them for allotments or any part thereof is not needed for the purpose of allotments, or that some more suitable land is available, they may, . . . sell or let such land otherwise than under the provisions of this Act, or exchange the land for other land more suitable for allotments, and may pay or receive money for equality of exchange.

Options

1. The Council can retain control of the Allotments in its entirety.
2. The Council can transfer decisions to an Allotment Forum as already agreed under the Allotment Self-Management Policy.
3. The Council can increase the powers transferred under the Allotment Self-Management Policy
4. The Council can transfer all Allotment decisions to an Allotment Forum convened for such purposes.

Recommendation

I recommend that the Council considers transferring all powers, with the exception of the management of the Allotment Policies and Processes, to the Allotment Forum, if it is convened. This would include the collection and retention of the Allotment Rents and full powers to decide how this rent is used. Full powers and decisions on the letting and removal of tenants as required so long as these are lawful and within current policies.

This would require a reduction in the new Lengthsman contract for 2020 of the 17 days currently being used on the allotments, as the decision of who to use for Allotment work would be with the Allotment Forum and they are not constrained to use the Parish Lengthsman, however they may take the decision to use the Lengthsman.

The rent collected would be the Allotment Budget within each year and the Forum has full autonomy over how this income is spent, it can also raise additional funds for use on the Allotments but, cannot incur expenditure above its income. The Forum would order the work direct and pay the bills received. The Forum would be fully responsible for all aspects of the Allotment as per current Allotment Policies, this would include maintenance, repairs, grass cutting, hedges, fences, lettings, rent collections and disputes.

To achieve this the Council would write to all allotment tenants outlining the self-management proposal and ask them to either vote for or against the new proposal. If they vote against then that is the end of the matter and the Council retains control. If they vote for the proposal, they are advised that, if they are a Parishioner, they can put their name forward for an election to the Allotment Forum, where 5 places will be made available. If more than 5 nominations are received, then the Council holds an election for the places. If less than 3 nominations are received the Council retains control until such time as 3 Forum Members are nominated.

To remain lawful, all current non-parishioner tenants (those not paying the Parish Precept) are given 12 months' notice to terminate their tenancies from 31st March 2020. They would only be offered a new, maximum 12 month tenancy on the 1st April 2021, if there are no Parishioners requesting an allotment at that time. The tenancy will also state that during

the 12 month, if a Parishioner requests an allotment, they will have 1 month notice to quit. The Council would be acting unlawfully under the Allotment Act 1908 if it did not take this action.

The land at the end of Harrison Street is deemed to be unsuitable for an allotment and is offered for sale to the homeowner of the residence it is attached to.

Councillor Adam Dack
Lead Councillor for Allotments.