

Elysian Fields under threat

Allotments Refuges of blissful contentment are becoming hotbeds of bitter conflict. Sarah Quy addresses the growing pressures on the nation's allotments

As housing and infrastructure needs intensify, local authorities are coming under pressure to sell allotment land to developers. Allotment sites that are owned and run by local authorities are subject to various protective measures, particularly section 8 of the Allotments Act 1925, which requires adequate replacement provision in most cases of disposal. Policy guidance issued by the Department for Communities and Local Government in January 2014 – *Allotment disposal guidance: safeguards and alternatives* – helps councils apply for consent to dispose of allotment land and clarifies how applications will be assessed.

Watford allotments dispute

A recent high-profile clash between plot-holders and a local authority occurred last year at Farm Terrace in Watford, a site of 128 plots established near the town centre in 1896. Watford Council applied for permission from secretary of state Eric Pickles to appropriate the site as part of a large redevelopment, including an extension to Watford Hospital and the provision of new housing. The plot-holders twice challenged this successfully – the first time the secretary of state changed his mind, and the second time he was

overruled by the High Court in *Moore v Secretary of State for Communities and Local Government* [2014] EWHC 3592 (Admin).

The court dismissed three of the arguments concerning the validity of the decision but upheld the challengers' claim that, because the secretary of state did not know that there would be significantly more houses built than was proposed in the initial application, his understanding of the viability of the scheme without the allotment land was materially affected.

The council has since reapplied for consent. The plot-holders set up an online petition in February asking the government to increase protection for allotments. By April this had collected 13,557 supporters. The plot-holders claim that between 2007 and 2013 only four out of 199 applications to sell allotments were rejected, and contend that few of the policy criteria set out in the January 2014 guidance are applied in practice.

For example, the guidance states that "adequate alternative provision should ideally be within three-quarters of a mile of the existing allotment site and be easily accessible" but this requirement can be dispensed with if "exceptional circumstances" apply. At Watford the

alternative site on offer is 2.6 miles away, which the plot-holders say is too far away. They claim this concern was not given due weight.

The opposing view

In response, the government claims that, since 2010, the total number of allotments has increased. It argues that the publication of the guidance has strengthened safeguards, as have the community rights granted by the Localism Act 2011. These rights include "neighbourhood planning" whereby local groups can create neighbourhood plans to govern local planning decisions, and "community right to bid", which enables local groups to apply for a property to be listed as an asset of community value ("ACV"). Once an asset is listed as an ACV, interested parties will be notified of any intended sale and can bid to buy it themselves. ACV status is also a material consideration in planning decisions.

In practice, it is not known how many allotment sites there are in the UK, or how many of them are easily accessible, or how many people are on waiting lists. Neither is it known how neighbourhood planning will affect allotments disposals. Critics of the ACV regime suggest that applications to list open spaces are significantly less likely to succeed than those relating to pubs or libraries. Meanwhile, councils are in the uncomfortable position of being tasked with both promoting green issues and also providing housing and other local services. Allotment sites are on the front line.

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KEY PROTECTIVE MEASURES RELATING TO COUNCIL-RUN ALLOTMENTS

Small Holdings and Allotments Act 1908

Requires councils to provide enough allotments for all their local residents who would like one.

Section 32 of the Small Holdings and Allotments Act 1908

The proceeds of the disposal of allotment land must be spent on:

- i) discharging debts from the purchase of allotment land; then
- ii) acquiring new allotment land or improving existing sites

Section 2 of the Allotments Act 1922

Under some circumstances, when tenancies of allotment plots are terminated, plot-holders can claim compensation for the loss of crops, manure, labour costs and structures erected with landlord's consent.

Section 8 of the Allotments Act 1925 ("the 1925 Act")

Where a local authority owns an allotment site it cannot sell or appropriate the land without the secretary of state's consent, which may be given unconditionally or conditionally, but cannot 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 impracticable.

Allotment disposal guidance: safeguards and alternatives

(available to view at www.gov.uk/government/publications/allotment-disposal-guidance-safeguards-and-alternatives)

The guidance fleshes out the three requirements set out in section 8 of the 1925 Act. For instance, when considering whether adequate provision has been made for displaced plot-holders, the secretary of state will consider the:

- number of plot-holders affected and their views;
- size of alternative site and plots compared to size of existing site and plots and explanations for difference;
- accessibility of and distance of alternative site from existing site bearing in mind the needs of the elderly/disabled; and
- evidence that the alternative land has been secured.

It also sets out four policy criteria for deciding whether consent can be granted:

- i) is the allotment in question necessary?
- ii) how many people are on the waiting list, with reference to the length of waiting lists for other local sites?
- iii) has the council actively promoted and publicised the availability of sites and consulted the National Allotment Society?
- iv) what are the implications of a disposal for other relevant policies?