

REPORT TO CABINET

REPORT OF: Councillor Mrs Cartwright – Economic Development
Portfolio Holder

REPORT NO: AFM0173

DATE: 6th December 2010

TITLE:	Provision of Allotments in Grantham - updated following deferral of Report AFM0166 1st November 2010	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	Key Decision	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Cllr Mrs Cartwright – Economic Development Portfolio	
CONTACT OFFICER:	S.McCahon – Team Leader Leisure & Amenities – tel: 01476 406423. e-mail – s.mccahon@southkesteven.gov.uk P.Stokes – Head of Assets Tel: 01476 406410 p.stokes@southkesteven.gov.uk	
INITIAL IMPACT ASSESSMENT:	Initial Impact Assessment: Not required	Full impact assessment N/A
Equality and Diversity		
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Local Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	AFM0103 – Maltings Lane Allotment Land AFM0166 – Provision of Allotments in Grantham	

1. RECOMMENDATIONS

Taking into account:

- The current provision of allotment land in the Grantham Town area and:
- The offer by the land owners to the California Gardens allotment holders of an alternative site for 21 years with a five year rent free period.

It is recommended that Cabinet consider whether to pursue a Compulsory Purchase Order (CPO) of the California Gardens allotment site or any other potential site in the Grantham Town Area in an attempt to satisfy potential demand.

2. PURPOSE OF THE REPORT/DECISION REQUIRED

The purpose of the report is to detail the Council's duty to provide allotment land and provide evidence as to the provision of allotment land in the Grantham Town area and whether it is reasonably justifiable to consider the use of Compulsory Purchase powers (CPO) to provide allotment land.

3. DETAILS OF REPORT

The District council has a duty, where there is no Town or Parish Council, to make provision for a sufficient number of plots under Section 23 of the Small Holdings and Allotments Act 1908. That duty is absolute, however, there is no provision to define the extent of that duty. To do that, the Council must consider what is reasonable in all the circumstances. In particular, the Council should determine what it considers to be a sufficient number of plots.

Allotments provide a valuable community asset that offers people opportunities to grow their own produce, improve their health and wellbeing, and foster community cohesion and support biodiversity. In recent years there has been more interest in growing your own food and there has been a national increase in demand for allotments as people recognise the multiple benefits of keeping an allotment for the provision of sustainable and cost effective food.

The adopted Core Strategy Policy EN1 seeks to protect existing open space including allotments from development. This is supplemented by saved Policy REC7 of the South Kesteven Local Plan, which seeks to retain allotments unless it can be demonstrated that there is no further need for the provision in the locality or equivalent alternative facilities in an acceptable location can be provided. This Policy will remain in operation until the adoption of new policies through the Grantham Area Action Plan (anticipated in 2012).

The District Council has in place a study entitled "Open Space, Sport and Recreation in South Kesteven" which was published in April 2009. This document defines a standard of allotment provision of 0.2 hectares per 1000 persons as a basis for a minimum target for both provision across the District and as a contribution from new housing development. It is intended that the application of this standard will be in conjunction with the continuation of policies restricting the disposal of existing allotments to where there is a demonstrable lack of need, or where suitable alternative provision is being made.

At the time of publication, the study established the level of allotment provision in Grantham at 23.34 hectares or equivalent to 0.52 hectares per 1000 persons. This included all allotment sites including sites, or parts of sites, that were unused or underused, it is estimated that this amounts to approximately 7 hectares. It also included sites which have subsequently gained the benefit of planning permission for housing. In 2009 there was an appeal on a decision made by the District Council to refuse planning permission for residential development on an allotment site in the Grantham Town area. The Planning Inspector considered that there was sufficient provision overall within the town compared to demand but also a demonstrable lack of demand for allotments in the locality of the site and allowed the appeal.

The Council has been seeking allotment land to meet the demands of signatories to a petition received by the Council in December 2007 in respect of California Gardens, off Maltings Lane, Grantham, owned by the Lely Trust. A notice of eviction has now been served on the allotment holders which was due to come into effect on 22nd October 2010 although a postponement has now been allowed until January 2011.

Since receipt of the petition officers have investigated all known alternative options for the

provision of allotments. These included a search of the Council's own land portfolio and options such as Walton Gardens and Arnoldfield. Discussions also took place with other land owners and allotment associations on sites including Huntingtower Road, Manthorpe and Barrowby Road to see if any existing sites could be extended. No land was identified as a result of these investigations as all sites had to be discounted mainly due to either existing sites being at capacity or the unwillingness of the allotment associations or their landlords to extend.

Other sites have been considered including Running Furrows, off Gonerby Road, Grantham, which was offered by the agent for the landowner of the California Gardens. The site was discounted on grounds of access issues.

Negotiations were also carried out with the agent for the landowner (also the Lely Trust) of the Maltings site, adjacent to California Gardens, Gonerby Hill Foot. This was offered on a lease basis for a period of 8 years. The Maltings site is approximately 3.6 acres, in comparison to California Gardens which is approximately 8.5 acres and could only provide a partial and potentially time limited solution.

The agent for the owner of the California Gardens site has been asked to consider selling the site to the council. At the time of writing this report no positive response to this offer has been received to date.

In addition to trying to find available allotment land the Council has carried out work to try and assess the level of demand for allotment provision in the Grantham Town area. Over the last 18 months three surveys have been sent to allotment associations in Grantham Town to ascertain their current capacity. Whilst responses were not received from all sites the latest survey carried out in April 2010 indicated that out of the four sites who responded there are waiting lists in operation and an average of 10 people currently awaiting plots on each site in comparison with a total population of approximately 38,000.

A separate survey to those people on the original petition to the Council was carried out in August 2009. This showed that there were some 44 people still looking for an allotment. Many of those are currently still on the California Gardens site, but some moved off following the original Notice to Quit in 2008 and some have moved off the site since the landlord's Eviction Notice in October 2010.

A more comprehensive survey was commenced on 15th October 2010 which asked residents within the Grantham Town area whether they were currently looking for an allotment or may be at some time in the future.

There is evidence of demand for allotments in other areas across South Kesteven. Both Bourne Town Council and Stamford Town Council have waiting lists in operation at their sites of 77 and 126 respectively.

Prior to the Cabinet meeting on 1st November 2010 when Report AFM0166 was due to be discussed and was subsequently deferred, the Council was made aware that the owners had made an offer to the allotment holders at California Gardens for alternative allotment plots at both the Maltings site, Gonerby Hill Foot and Running Furrows, off Kingscliffe Road. This offer is to negotiate with the allotment holders (through an allotment association) for one or both sites on the basis of a lease with an initial term of 21 years with a five year rent free period to allow time to prepare and cultivate the Maltings site. In addition the owners have confirmed their intention to waive rent currently owed to assist them in relocating.

This offer direct to the allotment holders is on different terms than that previously offered to the Council as it is for a considerably longer lease period, including a five year rent free period, and waives rent arrears on California Gardens.

The Council has been advised verbally that the allotment holders will be accepting this offer and responding accordingly to the landowners' solicitors. In addition they are forming an Allotment Committee to deal with the negotiations with the landowner. Whilst the Maltings site is smaller than California Gardens the Allotment Holders are prepared to take smaller plots to accommodate them.

A representative of the allotment holders has already had an initial meeting with the Council's Development Control Section to discuss the discharge of the remaining conditions applicable to the planning permission for change of use on the Maltings site.

4. OTHER OPTIONS CONSIDERED

A reasonable offer of an alternative site has been made by the landowner and we understand that this will be pursued by the allotment holders who will negotiate with the landowner directly.

5. RESOURCE IMPLICATIONS

It can be estimated that the potential cost of a purchase in accordance with Compulsory Purchase powers would be in excess of £150,000. This excludes any ongoing revenue costs for the management and maintenance of the site once acquired.

If the costs of any acquisition are not borne by the general tax payer of South Kesteven they will need to be charged through to Grantham residents specifically through the Grantham Special Expense Area as part of the council tax calculation.

6. RISK AND MITIGATION (INCLUDING HEALTH AND SAFETY AND DATA QUALITY)

7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT

An Equality Impact Assessment is not required for the purpose of this report.

8. CRIME AND DISORDER IMPLICATIONS

N/A

9. COMMENTS OF DEPUTY SECTION 151 OFFICER

The report sets out the historical context of this matter and seeks a decision that could result in the Authority commencing a compulsory purchase order in respect of the allotments at California Gardens Gonerby Hill Foot Grantham. At this stage I have to advise that there is no budgetary provision for this proposal included in the budgetary framework for 2010/11. The work being undertaken is from existing officer resources and senior management will ensure that this additional work can be accommodated without compromising both service or priority action plan delivery and that it will be charged to the Grantham Special Expense Area (SEA).

Any capital expenditure that may necessary will need to be incorporated into the capital programme and will be scored in accordance with the Council capital scoring criteria and with other competing schemes that require inclusion into the capital programme.

Cabinet is very aware of the financial challenges the Council will be facing in the short to medium term and preparatory work is well advanced to ensure a sustainable budget is developed from 2011/12. At this stage I cannot confirm that the Grantham SEA can financially support further costs as the budget work is currently being undertaken and the full extent of the costs involved in the process are not fully defined. If it is decided that CPO is the most appropriate way forward and therefore charged to the SEA then this could result in other costs currently being charged to the SEA being removed in order to avoid future excessive council tax rises for Grantham Town residents.

10. COMMENTS OF MONITORING OFFICER

The purpose of this report is to provide members with all the information that is currently available to enable Cabinet to consider whether or not the Council should instigate the work required to deliver a compulsory purchase order (CPO) to secure the acquisition of the California Gardens allotment site to retain the site for allotment use. The duty of the Council is detailed in the report. Before determining the use of (CPO), the Cabinet must consider the extent of the duty to make provision for allotments. If it is determined further provision should be made, it must consider all means of making that provision. There is no statutory time frame in that respect. Whatever the Cabinet decides, it must do so on the basis of that which is reasonable. There is no duty to make use of CPO. It is a power which is available as a last resort. There must be clear justification with a sound policy basis for use of the power. In addition, the means of funding any such acquisition must be determined before an order can be made. Not only must the Council allocate sufficient resources, it must also be able to show how initial acquisition costs and ongoing revenue costs can be met. It would have to determine if such costs were to fall to the Grantham SEA or the allotment users themselves.

I draw members' attention to s. 39 of the Small Holdings and Allotments Act 1908 which provides a power referred to as compulsory hiring. This is a means of compulsory acquisition which is available to District Councils for the provision of allotments where the district council is asked to use its powers to acquire land on behalf of a parish council and it proposes to let the land to the parish council for use as allotments. These circumstances do not exist in this case.