



Department for  
Communities and  
Local Government

# Allotment disposal guidance: Safeguards and alternatives

© Crown copyright, 2014

*Copyright in the typographical arrangement rests with the Crown.*

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, [www.nationalarchives.gov.uk/doc/open-government-licence/](http://www.nationalarchives.gov.uk/doc/open-government-licence/) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

This document/publication is also available on our website at [www.gov.uk/dclg](http://www.gov.uk/dclg)

If you have any enquiries regarding this document/publication, email [contactus@communities.gov.uk](mailto:contactus@communities.gov.uk) or write to us at:

Department for Communities and Local Government  
Eland House  
Bressenden Place  
London  
SW1E 5DU  
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/CommunitiesUK>

January 2014

ISBN: 978-1-4098-4132-6

# Contents

<a href="#"><u>Introduction</u></a>	4
<a href="#"><u>Allotment disposal: statutory criteria</u></a>	6
<a href="#"><u>Allotment disposal: policy criteria</u></a>	9
<a href="#"><u>Alternatives to disposal</u></a>	12
<a href="#"><u>Making an application: next steps and timeline</u></a>	15

# Introduction

- 1.1 Allotments are valuable community spaces that provide people with the opportunity to enjoy regular physical exercise; meet new people in their neighbourhood; and benefit from a healthier diet, regardless of income. Therefore, there are many legal and policy safeguards in place to make sure that their disposal is properly and thoroughly handled by the Secretary of State.
- 1.2 This document is a guide to how such disposal decisions will be handled by the decision makers involved. Information and advice is provided on the criteria used to assess whether local councils (hereafter “councils”) can be granted consent to dispose of land used for allotments. The guide’s main purpose is to help councils decide whether to apply for consent to dispose of allotment land and to provide clarity on how disposal applications will be assessed.
- 1.2 This guidance applies to all land a council has purchased or appropriated land for use as allotments and where the land has not been designated for another purpose prior to its use as allotments. This is known as statutory allotment land. A council may be a parish or town council, a district council, a metropolitan district or metropolitan borough council or any other unitary council. The guidance outlines the Government’s interpretation of the law. It is not an authoritative statement of the law, as this can only be provided by the courts.
- 1.3 While this guide is mainly for councils, it may also be helpful to others interested in allotments such as tenants of allotment gardens and the National Allotment Society who local councils are required to consult before applying for consent to dispose of allotment land. Anyone unsure of their legal rights or obligations should consult a lawyer.

This guidance is divided into four broad areas:

## **Allotment disposal: statutory criteria**

- 1.5 Councils cannot dispose of statutory allotment land without the Secretary of State’s consent. Section 8 of the Allotments Act 1925 states – “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”.
- 1.6 This 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" (Section 8, The Allotments Act 1925 – hereafter referred to as “the Act”).

[More information about Allotment Disposal Criteria: Statutory Criteria](#)

## **Allotment disposal: policy criteria**

- 1.7 In addition to the mandatory statutory criteria, there is also policy guidance on the disposal of allotments. These policy criteria will be applied thoroughly to any application for disposal that the Secretary of State receives. In exceptional circumstances, the Secretary of State may be content to grant consent for disposal where the statutory criteria, but not all the criteria in the policy guidance, are satisfied.

[More information about allotment disposal criteria: policy criteria](#)

## **Alternatives to disposal**

- 1.8 Across each council's area, there may be one or more sites being considered for disposal. As long as the council has fulfilled the criteria for disposal, consent would normally be granted. Demand for allotments fluctuates, however, and retaining sites may be preferable to, and more cost-effective than, acquiring new land in the future.

[More information about alternatives to disposal](#)

## **Making your application: next steps and timeline**

- 1.9 Once the council has decided on disposal, it will need to apply to the Secretary of State for consent. The application form can be obtained by e mailing [npcu@communities.gsi.gov.uk](mailto:npcu@communities.gsi.gov.uk) or downloaded here.

[More information about making your application](#)

## **Questions about the guidance**

- 1.10 If you have questions about this guidance which are not answered in the relevant sections below, please contact the National Planning Casework Unit by sending an e-mail to [npcu@communities.gsi.gov.uk](mailto:npcu@communities.gsi.gov.uk)

# Allotment disposal: statutory criteria

What are the statutory criteria councils must meet before consent to dispose of allotment land is granted?

2.1 There are 3 mandatory criteria in section 8 of the Allotments Act 1925:

1. The Secretary of State is satisfied that adequate provision will be made for allotment holders displaced by the action of the local authority; or
2. The Secretary of State is satisfied that such provision is unnecessary; or
3. The Secretary of State is satisfied that such provision is not reasonably practicable.

**How does a council show it has met these criteria?**

**Adequate alternative provision will be made for displaced plot holders**

2.2 This criterion expects councils to show that adequate alternative provision has been secured for use as allotments (even if the land has not yet been purchased or cultivated as allotments). Adequate alternative provision should ideally be within three-quarters of a mile of the existing allotment site and be easily accessible. If this is not the case, an explanation will be required. Councils should provide a map highlighting the existing site and alternative new provision.

2.3 The Secretary of State, will consider the following when seeking to establish whether or not councils have met this criterion:

- Number of plot holders affected
- Size of new/alternative provision in relation to size of existing site
- Size of new plots if different from size of current plots
- Explanations for difference
- Distance of new/alternative site from existing site
- Accessibility of new/alternative site (including taking into account the needs of potential allotment holders, such as the elderly and disabled).
- Views of existing plot-holders where these have been expressed to the council (copies of letters or emails)
- Evidence that land has been secured for use as allotments. This could include an in-principle lease or sale agreement where the land is commercially provided; an extract from an adopted local or neighbourhood plan showing future allotment provision; or, where the land is council owned, correspondence or agreed meeting notes showing the land can be used for statutory allotments.

### **Such provision is not necessary**

- 2.4 This criterion provides that adequate alternative provision is not necessary for example, because-
- There are no existing plot-holders on that site; and
  - There is no one waiting for a plot on that site

### **Such provision is not reasonably practicable**

- 2.5 This criterion provides that adequate alternative provision is not reasonably practicable. It is for the council to explain why it thinks that such provision is not reasonably practicable as each council's situation will differ according to their local circumstances.

### **Land can be very expensive so would the Secretary of State agree that it would not be reasonably practicable for a council to provide adequate alternative provision for displaced allotment holders?**

- 2.6 Generally, no. Section 32 of The Small Holdings and Allotments Act 1908 requires that money from the sale or exchange of statutory allotment land be spent on acquiring new land for use as allotments or on improving the existing stock of allotments. However, money from the sale of allotment land may first be used to discharge debts or liabilities of the council in respect of land acquired by the council for allotments.
- 2.7 Additional finance for allotments may be obtained through planning obligations or the Community Infrastructure Levy. The Levy can be charged on owners or developers of land undertaking new building projects in the council's area. The money can be used to fund a wide range of infrastructure that is needed as a result of development which could include allotments.
- 2.8 Where it is not possible to finance alternative land for displaced allotment holders, disposal will not be an option.

### **Land can be very expensive so would the Secretary of State agree that, as long as alternative allotment provision has been made, the distance between the new site and the one being disposed of isn't an issue?**

- 2.9 In the exercise of their public functions, including, for example, the provision of statutory allotments, councils must consider the impact their actions could have on people who may not be able to travel long distances. The department, in making its decision on such cases, will take account of the possible impact of the council's proposed actions for less mobile individuals (eg elderly or disabled).

**The council needs all its land for housing or for infrastructure like roads, hospitals and schools. Surely in these situations the Secretary of State would agree it would not be reasonably practicable to provide adequate alternative provision for displaced allotment holders?**

2.10 Where there is no land available to be used as allotments, it is likely that the council could demonstrate that it wasn't reasonably practicable to provide alternative provision. However, in such circumstances, the council would not be expected to displace existing allotment-holders. Applying to dispose of only a part of the site may be an option. The council should also consider that allotments are valuable community assets and can be treated as important supporting infrastructure.



# Allotment disposal: policy criteria

## What are the policy criteria?

- 3.1 There are four policy criteria:
1. The allotment in question is not necessary and is surplus to requirement;
  2. The number of people on the waiting list has been effectively taken into account;
  3. The council has actively promoted and publicised the availability of sites and has consulted the National Allotment Society; and
  4. The implications of disposal for other relevant policies, in particular local plan policies, have been taken into account.

## Will policy criteria be applied in the same way as statutory criteria?

- 3.2 The policy criteria will be applied thoroughly to all applications received. However, it is recognised that there may be exceptional circumstances in which disposal can be granted even though not all policy criteria have been met. But in all cases the [statutory criteria](#) must be met. Information about how such exceptional circumstances will be considered can be found at paragraph 3.13.

## How does the council show that “the allotment in question is not necessary and is surplus to requirement”?

- 3.3 This criterion assumes that the site is either not being used or suffers from low occupation. Where a large site only has a few occupants on it, the site could generally be deemed to be surplus to requirements. Councils still must show that adequate alternative provision will be made for any displaced plot-holders unless this is unnecessary or not reasonably practicable.
- 3.4 The Secretary of State will consider the following when seeking to establish whether or not councils have met these criteria:
- Number of plots (if cultivated) and their size
  - Number of existing plot holders
  - Number of people on waiting list for that site
  - If the waiting list has been closed and at what number

### **How does the council show that “the number of people on the waiting list has been effectively taken into account”?**

- 3.5 This criterion takes into account waiting lists across the whole of the council's area and seeks to understand where there are apparent contradictions between the numbers on waiting lists across the borough and planned allotment disposal.
- 3.6 The Secretary of State will consider the following when seeking to establish whether or not councils have met this criterion:
- Numbers of people on waiting lists for other sites in the Council's area
  - Evidence the council has sought to match demand with supply (e.g. have they asked those on the waiting list whether they would want a plot on the existing site and if not, the reasons why).
  - If the waiting list has been closed and at what number

### **How does a council show it “has actively promoted and publicised the availability of sites and has consulted the National Allotment Society?”**

- 3.7 The criterion takes into account latent demand – those that might be interested in taking an allotment plot - as well as active demand (those on the authority's waiting list/s). The criterion also requires the council to have consulted the National Allotment Society (previously known as the National Society of Allotment and Leisure Gardeners). Their views will be considered by the Secretary of State but will not be conclusive as to whether consent is granted or not. Consultation with the National Allotment Society is likely to be more constructive when it is done at the point disposal is being considered as an option as the National Allotment Society can advise on a number of matters including possible alternatives. It is preferable to consult with the National Allotment Society before obtaining councillors' agreement to the proposed disposal application.

### **The authority has actively promoted and publicised the availability of sites**

- 3.8 The Secretary of State will consider the following when seeking to establish whether or not councils have undertaken a range of activity to promote and publicise the availability of their allotment sites:
- Link to council's web site;
  - Copy of poster/leaflet with information about where they've been distributed/displayed;
  - Copy of any announcement and information about where it's been placed
  - Any other methods the council has used to actively promote and publicise the availability of sites.

## **The authority has consulted the National Allotment Society**

3.9 The Secretary of State may want to see copies of all correspondence the council has had with the National Allotment Society such as e-mail conversations, agreed notes of meetings and any other forms of correspondence not listed here.

## **How does a council show that “the implications of disposal for other relevant policies, in particular local plan policies, have been taken into account”?**

3.10 The criterion looks to assess any contradictions between the council’s intention to dispose of allotment land and other council policies, particularly in local or neighbourhood plans.

3.11 The Secretary of State will consider the following when seeking to establish whether or not councils have met this criterion:

- Copy of the local or neighbourhood plans where the allotment site to be disposed of is identified in the plan. Councils should highlight the relevant section of the plan.
- Copy of any other council or national government policies which may be affected by, or influence, the decision to seek disposal of the allotment land. Councils should highlight the relevant section/s.

## **Is it true that consent will depend on consultation with allotment holders?**

3.12 There is no specific requirement to consult with allotment holders although it is good practice to do so. It is likely that allotment-holders will send their views to councils (by email or post) regardless of whether or not a formal consultation exercise is conducted. The Secretary of State may want to see such correspondence to ensure he has a full understanding of the situation.

## **What shall the council do if they are unable to comply with all the criteria?**

3.13 The statutory criteria for disposal of allotments must be met in all cases [link to Tier 2 Statutory Disposal Criteria]. If the council is unable to show that it has complied with one or more of the policy criteria it will need to provide evidence of the exceptional circumstances that could justify disposal of the allotments. For example, it might need to demonstrate why the allotment site must be redeveloped for the proposed use and why it has not been possible to accommodate the proposed use on an alternative site. The Secretary of State will consider the evidence submitted in deciding whether to grant consent for the disposal, in accordance with the legislation and on a case by case basis.

# Alternatives to disposal

## **The council has a large allotment site which is costing a lot to maintain. Can they just dispose of it?**

- 4.1 Where maintenance costs are high because the site is empty or many plots are not occupied, disposal of the site may fulfil the criteria that the site is not needed or is surplus to requirements.
- 4.2 However, instead of applying for disposal, an allotment association in the area (if not one on that site) could be given the option to take over the running of the site. Information about devolved management arrangements can be found in the Local Government Association (LGA) guide, "Growing in the Community", or the council can contact the National Allotments Society - either a regional representative or the Head Office. The council can order a copy of "Growing in the Community" by contacting LGConnect on 020 7664 3131 or email: [info@local.gov.uk](mailto:info@local.gov.uk)
- 4.3 Any existing allotment holders must be made aware of their right under the Localism Act 2011 to submit an expression of interest in running the allotment service of the council on their behalf. More information about the Community Right to Challenge can be found at <http://mycommunityrights.org.uk/community-right-to-challenge/>

## **There is one site where nobody wants a plot but elsewhere there are lots of people waiting for plots. How should a council reconcile this situation?**

- 4.4 The lack of demand for that particular site could be because it is not seen as suitable by prospective allotment holders. For example, it might not have suitable disabled access or adequate security or storage facilities. The council should seek to establish with existing or potential allotment-holders what the concerns are, and engage them in ideas on how to improve the site. It may not be practicable to improve the site so if the council sells the land, it may be able to use funds from that sale to acquire, adapt or improve other land for allotments (Section 32 of the Small Holdings and Allotments Act 1908).
- 4.5 If the council considers the site is suitable or following discussions with existing or potential allotment-holders no concerns as to the suitability of the site have been raised, then it is possible that the low demand is a result of people being unaware of its existence. Creative ideas on how the council might actively promote and publicise the availability of allotment sites can be found on page 39 of "Growing in the Community" but could include:
  - Announcements in the local newspaper, local radio stations, trades magazines;
  - Putting leaflets in places such as doctors surgeries or hospitals;
  - Placing posters in parks/other recreation areas (eg leisure centres)
  - Use of social media such as Twitter or Facebook or on the council's web site.

- 4.6 If possible, we would like to share any good examples of where councils have creatively and imaginatively promoted and publicised their allotment sites to spread best practice. Please let us know if you are content for us to share your examples with other councils.
- 4.7 Finally: another reason for the site's lack of popularity could be that it is not in the right location. If the council is satisfied that other potential allotment holders do not want a plot on this site, they may be able to sell this land and use the proceeds to buy a suitable alternative closer to where people want an allotment.

**The council is considering disposing of its allotment and redevelopment is a possibility. What can the council do to ensure communities have a say over the future of the site?**

- 4.8 The planning system provides many opportunities for local people to participate in key decisions about their areas. Early and meaningful engagement and collaboration with communities is important at the outset of any council's plans to redevelop an area. The Government's planning reforms have made it easier for communities to have a say in shaping the development of their area through neighbourhood planning. This gives communities direct power to develop a shared vision for their neighbourhood and shape the development and growth of their local area. They are able to choose where they want new homes, shops and offices to be built; have their say on what those new buildings should look like and what infrastructure should be provided; and comment on where there is a need either to protect or increase green space provision, including allotments. For more information about Neighbourhood Planning, visit <http://mycommunityrights.org.uk/neighbourhood-planning/>.
- 4.9 In addition, the Localism Act 2011 introduced the new Community Right to Bid. Provided the land has not already been sold, allotment holders might like to consider applying to list the allotment site as an asset of community value. Listing an asset would give interested community groups, including formally constituted allotment associations, the opportunity to raise money to purchase the land should it be placed for sale. The Secretary of State's consent to dispose will still be needed before the council can sell a listed site. A listed allotment does not mean the council has to sell this land but once a decision to dispose has been made, consent from the Secretary of State should be sought. More information about listing assets can be found at <http://mycommunityrights.org.uk/community-right-to-bid/>.

**The residents say they don't want an allotment plot because of the hard work it will involve. Should the council seek consent for disposal as the site is clearly 'not necessary and surplus to requirement'?**

4.10 Where there is little or no demand for an allotment site, then community gardens or other food growing projects could help reinvigorate this lack of interest. They can be less daunting to new growers who would not have sole responsibility for a single plot. Such projects may also encourage greater community integration as they provide opportunities to meet new people. However, any food growing project may still constitute a change of use to the allotment land. If that is the case, consent from the Secretary of State for disposal is likely to still be needed.

4.11 Community garden projects might also benefit from contacting the [Federation of City Farms and Community Gardens](#) who can advise groups wishing to establish either community gardens or community orchards. Alternatively, the council can encourage groups wanting to pursue such projects to contact the [Community Land Advisory Service](#), which is aimed at helping community groups, landowners and other interested people to find information on making more land available for community use. Guidance about establishing community orchards and other spaces for food growing can be found at:

<https://www.gov.uk/government/news/helping-to-meet-a-growing-demand-new-guide-to-help-community-orchards-blossom>

<https://www.gov.uk/government/news/planting-the-seeds-for-community-grown-food>

# Making an application: next steps and timeline

## **When should a council apply to the Secretary of State for consent and how does it go about doing so?**

- 5.1 Once a council has carried out the necessary consultation with the National Allotment Society and decided there is no alternative to disposal, it can apply to the Secretary of State for consent.
- 5.2 The application form can be obtained by e-mailing [npcu@communities.gsi.gov.uk](mailto:npcu@communities.gsi.gov.uk) or downloaded through the DCLG website.

## **Will the Secretary of State tell councils what information they need to provide so as to be able to approve their applications?**

- 5.3 The Secretary of State will endeavour to make a decision on council applications promptly. Once a council has submitted its form, it should receive a response from the National Planning Casework Unit, the staff who consider applications on behalf of the Secretary of State, within one month. The response will indicate whether or not the Secretary of State regards the council's application form as having been fully completed. Where explanations or evidence have not been provided, for example, the Secretary of State will alert councils to this fact.
- 5.4 If the form is complete, the Secretary of State will let the council know it is considering their application and will aim to issue a decision within 13 weeks. However, if the application form is incomplete, councils will be given an opportunity to provide the missing information within one month.
- 5.5 There can be no presumption that the Secretary of State will approve a council's application. If the application form does not demonstrate that the criteria have been met, or the council has missed a deadline to provide missing information, then the Secretary of State reserves the right to proceed to make a decision on the council's case in the absence of the missing information or explanations. This does not prevent the council requesting a longer time frame where required. A refusal of consent does not affect a council's right to re-apply for consent to dispose of the land.

**The council is a small parish with only one town clerk. Surely it cannot be expected to complete the application form without extra support or meet these short timescales?**

5.6 We recognise that small parish councils do not have the resources of districts or unitary councils. We propose, therefore, that where the Secretary of State has informed parish or town councils about missing information, the council will be contacted within a few days to clarify any queries and advise on the deadlines to supply additional information.

5.7 The Secretary of State will then also contact the council a week ahead of the intended deadline to ensure that satisfactory progress is being made. Where the council is struggling, deadlines could be extended further but the Secretary of State retains the right to deny such requests.