

## CABINET

10 MAY 2011

### REPORT OF THE CABINET MEMBER FOR CULTURE AND SPORT

<b>Title:</b> Granting Statutory Status to Council Allotments	<b>For Decision</b>
<p><b>Summary:</b></p> <p>The Council wants to support more local people to grow their own food because it can have a positive impact on their health and well being by encouraging healthy eating, physical activity and social contact. One of the main ways that this is being achieved is through the provision of allotment sites across the borough. Good progress is being made in bringing derelict plots back into use and creating new ones to meet demand.</p> <p>This approach is endorsed in the Local Development Framework and the Mayor of London's policies around productive landscapes.</p> <p>This report recommends the Cabinet adopt a policy that when a Council site is used as an allotment, it be formally declared as Statutory Allotment Land, which would give them protection under the Allotments Act 1925.</p> <p>The Local Development Framework already provides protection for these sites. The additional benefit of a statutory designation is that a change of use of an allotment site would require the Secretary of State's consent to sell or change the use of any such site and to provide a replacement site.</p> <p>If this policy proposal is approved, the change in status of allotment land will make a very positive statement to the local allotment societies and the wider community about the Council's commitment to developing and protecting allotment provision within the borough.</p> <p><b>Wards Affected:</b> All</p>	
<p><b>Recommendation(s)</b></p> <p>The Cabinet is asked to agree:</p> <ul style="list-style-type: none"><li>(i) That the lands identified in the Appendix to this report and hatched on the supporting plan be appropriated for the purposes of statutory allotment under the Allotment Acts 1908 - 1950 for the purposes of providing persons resident in the borough with small plots of land for cultivation and that the Secretary of State be so advised; and</li><li>(ii) That it shall be the policy of the Council to register with the Secretary of State allotment land in the borough.</li></ul>	
<p><b>Reason(s)</b></p> <p>To support the achievement of the following community priorities:</p> <ul style="list-style-type: none"><li>• A clean, green and sustainable borough with far greater awareness of the actions needed to tackle climate change, with less pollution, waste, fly tipping and graffiti.</li><li>• A healthy borough, where health inequalities are reduced with greater knowledge of lifestyle impacts on health.</li></ul>	

## Comments of the Chief Financial Officer

There are no financial implications concerned with this proposal.

## Comments of the Legal Practice

By law, the Council must assess whether there is a demand for allotments in its area and if it decides that there is such demand; it has a statutory duty under Section 23 of the Small Holdings and Allotments Act 1908 to provide a sufficient number of plots to meet the demand and to let them to persons residing in its area who want them. Furthermore, any six or more residents on the electoral register or persons liable to pay council tax, may make written representations to the local authority on the need for allotments and the local authority must take those representations into account.

The acquisition of the status of allotment is not a planning matter as allotment land is the same as agricultural land.

The legislation regarding allotments is contained across a number of statutes from 1908 to 1950 and no single primary legislation provision or statutory instruments setting out the process. Advice is the best approach would be a resolution to the effect that lands identified on a map be appropriated for the purposes of statutory allotments under the Allotment Acts 1908-1950 (for the purposes of providing persons resident in the borough with small plots of land for cultivation) and that the Secretary of State be so advised.

In light of the above, the Council, having determined the need for additional allotments, is legally empowered to provide the areas identified as allotments.

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## 1. Background

- 1.1 An allotment is a piece of land which can be rented by an individual, usually through an association or society, for growing food crops such as fruit and vegetables for personal use.
- 1.2 The inherent nature of an allotment is that food is grown for personal use. If the food grown is sold then this would be classed as a commercial agricultural tenancy.
- 1.3 Under the Allotments Acts (1908-1950) a general duty is placed on each London borough to decide for itself how much of its resources to devote to allotments.
- 1.4 If an outer London borough believes there is a demand, it has a statutory duty (under Section 23 of the 1908 Act) to provide a sufficient quantity of plots and to lease them to people living in its area.

- 1.5 If people feel there is a need for allotments, which is not being met, they can get together a group of any six residents who are registered on the electoral roll and put their case to the local authority.
- 1.6 In preparing the London Borough of Barking & Dagenham's Local Development Framework Site Specific Allocation, the Planning Inspectorate agreed that this Council should provide 13.15 hectares (0.08 hectares per 1,000 head of population) of allotment land.
- 1.7 There are currently 16 allotment sites within the borough, two of which (Grovelway and Linkway) were re-opened recently. In addition, if it proves suitable for this purpose, it is planned that one further allotment site (Thatches Grove) will be re-opened in 2011. A list and their location is set out in appendix 1 of this report.
- 1.8 Provision of these 17 allotments will exceed the recommended level of allotment provision in the borough by about a hectare.

## **2. Proposal**

- 2.1 This report recommends the Cabinet adopt a policy that when a Council site is used as an allotment it be formally declared as Statutory Allotment Land, which would give them protection under the Allotments Act 1925.

## **3. Financial Issues**

- 3.1 There are no financial implications associated with this report.

## **4. Legal Issues**

- 4.1 Once a site is declared a statutory allotment it is subject to protection under Section 8 of the Allotments Act 1925. This requires that the Council would need to obtain consent from the Secretary of State for either selling or changing the use of an allotment site and in addition a replacement site should be provided.

## **5. Other Implications**

- **Customer Impact**

- 5.1 The impetus for this report dates back to the Leader's Question Time event in 2009 when a representative from the Barking Allotments Society asked the Council's Leader if all the borough's allotment sites could be declared as statutory, to give them greater protection under the Allotments Act.
- 5.2 If the recommendation contained in this report is approved it will send out a positive message to the allotment societies and the wider community about the Council's commitment to providing and protecting allotment sites within the borough.

- **Property / Asset Issues**

- 5.3 The Divisional Director of Regeneration and Economic Development has been consulted about this matter and is fully supportive of the proposal.

## **6. Options appraisal**

- 6.1 The Select Committee on Environment, Transport and Rural Affairs 5<sup>th</sup> Report recommended that Local Authorities should make clear the designations of their allotment sites. Local authorities can declare allotments as statutory or temporary. The declaration of existing sites as statutory also applies to temporary sites and future sites.
- 6.2 Option 1: The Council could declare the allotments as temporary sites, but would need to prove that each site had an ultimate intended use and a likely date for the change of use.
- 6.3 Option 2: The preferred option is to declare the allotments as statutory. This is in keeping with the Local Development Framework Plan and the Council's desire to support more local people to grow their own food because it can have a positive impact on health and well being by encouraging healthy eating, physical activity and social contact.
- 6.4 Option 3: Do nothing. In 2009 Barking Allotments Society asked the Council's Leader if all the borough's allotment sites could be declared as statutory; the do nothing option would be seen as unresponsive by members of the local allotments society and has no benefits for the wider Council and community.

## **7. Background Papers Used in the Preparation of the Report:**

None

## **8. List of appendices:**

**Appendix 1** - Map and list of allotments within the borough