

Agenda Item No:

Report to: Cabinet

Date of Meeting: 5th March

Report Title: Adoption of New Allotment Tenancy Agreement and Rules

Report By: Virginia Gilbert
Head of Amenities & Leisure

Purpose of Report

To present a new Tenancy Agreement and set of Rules for adoption

Recommendation(s)

- 1. Cabinet adopt the new Tenancy Agreement and Rules to come into effect for existing tenants on 1st April 2013 and for new tenants immediately;**
- 2. Officers undertake an allotment rent review in consultation with Site Secretaries and tenants during 2012;**
- 3. Officers consider options for future management of allotments during 2012;**
- 4. Cabinet thank the Site Secretaries of the Allotments for their positive contribution to developing the new Agreement and Rules and recognise the many positive contributions received from allotment holders.**

Reasons for Recommendations

- The Council's Corporate Plan for 2011/12 includes a commitment to review allotment arrangements in the Borough
- Our current Tenancy Agreement is poorly worded and does not adequately clarify our expectations on levels of cultivation, provide sufficient clarity over enforcement or allow us to review rents above inflation.
- The current tenancy agreement requires 12 months' notice for changes to take effect therefore requiring Cabinet to adopt the new Tenancy Agreement in March 2012 in time to send to every tenant on or before the 6th April 2012 to become effective in April 2013

Introduction

1. Hastings Borough Council set itself a target in the Corporate Plan during 2011/12 to;
 - a. Work with allotment associations to ensure that plots are fully cultivated and that management responsibilities are handed over to the associations wherever feasible.
2. We said we would do this by;
 - a. Publishing a comprehensive set of Allotment Rules
 - b. Publishing a new Tenancy Agreement with tighter procedures to ensure higher levels of cultivation
 - c. Reviewing rents
 - d. Undertaking a consultation on devolved responsibility to sites/associations

Background

3. There are currently no separate published rules that cover allotments in the Borough. The current tenancy agreement is a mixture of legal agreement and rules. Our solicitors have advised the current Agreement does not adequately clarify our expectations with respect to levels of cultivation or enforcement.
4. A new Tenancy Agreement has been drafted that includes, as an appendix, a set of rules aimed at providing clear definitions of acceptable levels of cultivation as well as outlining good practice for tenants. The new Agreement and Rules are attached as Appendix 1.
5. We are legally obliged to provide 12 months notice in writing to all tenants to change the existing Agreement, expiring on or before the 6th day of April in any year. The new rules would come into effect in April 2013.
6. Throughout the process of review the Council has worked with the Site Secretaries of the allotments and undertaken consultation with tenants.
7. The overwhelming feedback on the rules has been constructive and positive. The consultation feedback has informed the final draft of the document.
8. In light of the consultation feedback we propose, at this stage, to only adopt the tenancy agreement and rules in line with our Corporate Plan target. We propose working with Site Secretaries later in 2012 to discuss the remaining aspects of the Corporate Plan target.

What are the main differences between the old and new agreement?

9. We have defined levels of cultivation that all plot holders are required to adhere to. This provides clear guidance on what proportion of a plot should be used

productively for growing vegetables and fruit. The Rules provide further guidance on good practice and indicates what is not acceptable.

10. The current Tenancy Agreement runs from October through to September in any year with rents being raised in accordance with inflation in September. There is no capacity in the current Agreement to review levels of rent beyond inflation.
11. The proposed Tenancy Agreement changes the September to October year to a municipal year, 1st April to 31st March, in line with most other services in the Council. This allows allotment rent reviews to be considered within the council's annual budget setting periods more easily.
12. It is proposed to review rents annually. Section 10 of the Allotments Act 1950 allows the Council to set a rent at a level that 'a tenant may be reasonably expected to pay'. At a minimum, rents should rise by inflation (RPI) as advised by our accountants.
13. Our rents are low, at around £16.50 per year an average size plot, in comparison to other authorities in the Region. A similar size plot in Rother will cost around £25, Eastbourne, £40, Tunbridge Wells, £32.50, Ashford £20. It is proposed officers discuss a review of rents with Site Secretaries during 2012.
14. The proposed tenancy Agreement and Rules tighten up the Notices to Improve and Notices to Quit which are the legal mechanisms that govern our ability to administer the proper cultivation of plots and termination of tenancies where there is a breach of the Rules. This will allow us to enforce our rules more quickly, freeing plots for residents on our waiting list.

Timetable for implementation of the new Agreement and Rules

15. Under Allotment Legislation we are required to give 12 months notice in writing, expiring on or before the 6th day of April or on or after the 29th day of September in any year in order for changes to the tenancy agreement to take effect.
16. For the new rules and agreement to come into effect on 1st April 2013, the Council are required to adopt the new Agreement and to notify all tenants on or before the 6th day of April 2012.
17. Every Tenant will be sent a new Tenancy Agreement to sign. Those that do not sign will forfeit their right to an allotment. This is the same procedure undertaken in 2008 to implement the current Agreement. No one refused to sign a new agreement in 2008.
18. New tenants taking up a new plot after the adoption of the new Agreement will be required to sign the new Agreement.
19. It is proposed we collect 6 months rent on October 2012 in time to set a new rent from April 1st 2013.

Consultation

20. We have undertaken consultation in a number of ways;

- On the Council's web site;
- Discussions and meetings with Site Secretaries;
- Press releases in the Hastings Observer;
- Erected notices at every allotment site and;
- Written to every plot holder.

21. We extended the original consultation deadline of 12th January to 31st January and extended that again until 17th of February in order to provide maximum opportunity for feedback.
22. We have listened to the concerns and constructive comments from allotment holders and altered our original draft of the Agreement and Rules to reflect the comments received.
23. A summary of the results of the consultation process will be published on the Council's web site.

Wards Affected

Ashdown, Baird, Braybrooke, Castle, Central St. Leonards, Conquest, Gensing, Hollington, Maze Hill, Old Hastings, Ore, Silverhill, St. Helens, Tressell, West St. Leonards, Wishing Tree

Area(s) Affected

Central Hastings, East Hastings, North St. Leonards, South St. Leonards

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	No
Risk Management	Yes
Environmental Issues	Yes
Economic/Financial Implications	Yes
Human Rights Act	No
Organisational Consequences	No
Local People's Views	Yes

Background Information

Appendix 1 Tenancy Agreement and Allotment Rules

Officer to Contact

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