

Report of the Interim Town Clerk

Review of allotment provision

Background

1. The legal background to the provision of allotments by local councils is shrouded in a degree of confusion and misstatement in popular discussions. Parts of the Small Holdings and Allotments Act 1908 are still in force, despite the time that has elapsed since the passage of the 1907 and 1908 Acts. In particular, section 23 of the 1908 Act lays a duty on certain councils to provide allotments.
2. S23(1) states 'If the council of any borough, urban district, or parish are of opinion that there is a demand for allotments...in the borough, urban district, or parish...the council shall provide a sufficient number of allotments, and shall let such allotments to persons...resident in the borough, district, or parish, and desiring to take the same.'
3. 23(2) states 'On a representation in writing to the council of any borough, urban district, or parish, by any six registered parliamentary electors or [persons who are liable to pay an amount in respect of council tax] resident in the borough, urban district or parish, that the circumstances of the borough, urban district or parish are such that it is the duty of the council to take proceedings under this Part of this Act therein, the council shall take such representation into consideration.'
4. There are very few provisions in relation to the duty to provide, in terms of the time a council can take to provide allotments to meet demand, or the remedies available to those desiring allotments. In addition, it is strongly arguable that the duty to provide would have to be interpreted in terms of reasonableness; that is to say, would it be reasonable to force a local council to comply with this duty, in all the circumstances?
5. Nevertheless the idea that councils must provide allotments if six or more people ask for them has a powerful grasp on the imagination of those who are interested in the topic of allotments.
6. For clarity, it is the opinion of the ITC that s23.1 of the 1908 Act provides a power to resolve that there is a demand for allotments, creating subsequently a duty to provide allotments, and S.23.2 requires the council to take into account any representation signed by six or more people.
7. BTC has accepted its duty to provide allotments, and does so. In order to demonstrate that it is providing a reasonable number of allotments, BTC should review its provision on a regular basis, and consider its options
8. The only measure of demand for allotments BTC currently has is its waiting list, which is not regularly reviewed, and which may or may not be up to date.
9. In order to begin a review of allotment provision therefore, it seems appropriate to bring forward to council

- a. A statement of existing allotment provision, and
- b. A reviewed allotment waiting list (anonymized) to enable councillors to assess demand.

Recommendation

1. That council instruct the ITC to contact all individuals currently on the allotment waiting list to find out if their interest is still current, and
2. That council receive a future report.