

**Lifton Parish Council Meeting – 27<sup>th</sup> February 2025**  
**Agenda item 6.2 – Allotments**

Councillors are already aware that the new Wain Homes housing development on Fore Street, Lifton, includes the provision of 7 allotments, an additional 'composting area' and water supply (please see attached allotment plan from Wain Homes).

A copy of Schedule 2 (pages 27 to 29) of the S106 Agreement which sets out details of 'The Owners' Covenants with the Council' regarding this allotment land is also attached. Wain Homes are 'The Owners'.

Lifton Parish Council ('The Council') will need to make an informed decision whether to take on ownership of this allotment land or not; the information below/attached may be of assistance to Councillors:

**Legislation and Definitions**

The majority of the law relating to allotments is contained in the following Acts of Parliament: Small Holdings and Allotments Act 1908; Allotments Act 1922; Allotments Act 1925; Allotments Act 1950; Local Government Act 1972, Schedule 29, paragraph 9.

An allotment garden is a type of allotment, being a plot of land not exceeding 1,011.71 square metres, cultivated by the occupier for the provision of vegetables and fruit crops for themselves and their family (s.22, AA 1922). In practice, most local authority allotments fall within the category of an allotment garden.

Allotment authorities are the councils of London boroughs, districts, parishes and communities. Whilst these authorities all have power to provide allotments and allotment gardens, there is a statutory duty on them to provide allotment gardens sufficient to meet the demand of the local community (s.23, SH&AA 1908; s.9, AA 1950).

In practice, this duty is difficult to enforce against a hesitant local council. Nevertheless, if there is a proven and unmet demand for several successive years, the local council will have to be seen to be trying quite hard to meet that demand and have good reasons for not complying with the duty. Moreover, under that section, a local council must take into consideration any written representations for the provision of allotments made to it by any six parliamentary electors or council taxpayers in the parish.

In the previous 5 years, no such written representations have been received by Lifton Parish Clerk. 2 enquiries have been received recently regarding the allotments on the Fore Street development, 1 enquiry via email and 1 via telephone.

**Tenancy**

In drafting tenancy conditions, care should be taken to ensure that each plot is being let as an 'allotment garden' because any other type of allotment may constitute an agricultural holding within the meaning of the Agricultural Holdings Act 1986 and thus be subject to special rules as to security of tenure and notices to quit. An allotment which is used with the council's knowledge for commercial cultivation may also become an Agricultural Holdings Act plot.

Allotments, including allotment gardens, are treated as agricultural land for the purposes of exemption from non-domestic rating. (s.51 LGFA 1988 and Schedule 5, paras1-9(2)).

The Council will need to consider how the 'allotment garden' plots are allocated to tenants, i.e., on a first-come-first-served basis; only those residents living within a mile of the site and/or the whole parish; or to those with special needs (whether physical or otherwise).

It is essential that every tenant has a written tenancy agreement.

The terms of a tenancy are a matter for agreement between The Council and the tenant. Most councils offer standard terms in a printed document which tenants simply accept/sign. The Clerk has several examples of these which can be made available to Councillors.

The main contents of an allotment tenancy agreement are likely to include (but not limited to): names and addresses of the parties; date; duration (usually from year to year without a fixed termination date); amount of rent and date(s) payable, a rent review clause; obligations of tenant (e.g., To pay the rent, to cultivate the land and to keep the land tidy. To avoid creating an agricultural tenancy or a farm business tenancy, it is essential that the tenant is permitted to cultivate the land only to produce fruit and vegetables for personal consumption, i.e., for non-business purposes. A tenant has a statutory right to keep hens and rabbits for non-business purposes so long as they do not cause a nuisance or a health risk (section 12, Allotments Act 1950); obligations of Council (e.g., to pay water rates and other outgoings, such as path/fencing maintenance); termination provisions (governed largely by statute; see below); compensation provisions (also covered below); and signatures by or on behalf of the parties.

The agreement should be concise and easy to understand. A copy of the signed agreement should be retained by the Council and a copy handed to the tenant.

### **Termination Provisions**

The tenancy of an allotment garden can be terminated only by:

- (a) the landlord giving the tenant a notice to quit of at least 12 months expiring on or before 6 April or on or after 29 September in any year. This overrides any different contractual provisions;
- (b) the tenant giving the landlord notice to quit. No specific period is laid down by statute, but it is sensible for the statutory provision in (a) to be applied to the tenant's notice;
- (c) re-entry in accordance with a power in the tenancy agreement where the land is required for another purpose. This provision does not usually appear in a tenancy agreement for an allotment garden;
- (d) re-entry for non-payment of rent or breach of any term of the agreement or where the tenant becomes bankrupt or compounds with his creditors;
- (e) one month's notice to quit if the rent is in arrears for at least 40 days, or the tenant is not observing the rules relating to the allotment (if any), or the tenant goes to reside more than one mile outside the parish or district for which the allotments are provided.

Paragraphs (d) and (e) apply to all types of allotment.

### **Compensation**

There are complicated statutory provisions governing the payment of compensation on the termination of an allotment tenancy. This is usually available, if at all, for any crops and for manure which the tenant loses where the council terminates the tenancy by notice or re-entry. The amount is settled by agreement or by arbitration if no agreement can be reached. Compensation can usually be minimised if a notice to quit expires at a time of year when there are few crops growing. If the tenancy is terminated by re-entry under (c) above, compensation for disturbance of one year's rent is payable. On termination of the tenancy, the tenant may, before the tenancy ends, remove the crops growing on the land and any fruit trees or bushes that they have planted.

## **Insurance**

The Clerk received the following information from The Council's insurers: Allotments which the parish council own or are responsible for are covered as standard with the core policy, without incurring an additional charge.

## **Other things to consider:**

**Finances** – The ongoing costs to The Council for such things as the maintenance of the water supply, fence/path/car park maintenance and repairs, waste collection/bin emptying, pest control and the provision of site security measures to prevent crime/vandalism (gate/padlock/keys).

No provision has been made in the 2025/26 LPC budget for any of the above; any expenditure will come from general reserves for that financial year.

**Councillor commitment** – will The Council form an 'Allotment Committee' made up of its Councillors? Would membership include tenants/plot holders? Would Councillors undertake plot inspections and deal with problem tenants etc.;

**Parish Clerk's role** – how much time will be spent on 'allotment' management; will the employment contract need revising to reflect any additional work along with a review of current working hours and/or salary;

**Membership to The National Allotment Society** – To gain a range of benefits including free liability insurance, initial legal support, expert advice and much more. Fees for Local authorities - Parish & Town Councils (covers council but not plot-holders) is £70.00 + VAT per year (also a one-off charge of £1 for a share on joining).

## **Possible options for Councillors to consider:**

Lifton Parish Council can agree to take on ownership of the allotment land but give or lease the land to a 'nominee' such as a local resident's association, garden society, a local allotment association or to a registered charity. The PC would own the land but not be responsible for the day-to-day management of the site.

If Lifton Parish Council decide not to take up the offer of the allotment land, the allotment land shall either be retained by 'the Owners and managed and maintained by them in accordance with the Reserved Matters Approval or transferred by the Owners to the Management Company' (taken from paragraph 9 (page 28) of Schedule 2 of the S106 agreement).