



Fact Sheet

Sites under Threat

In determining what action (if any) can be taken it is first necessary to ascertain the status of the land.

Statutory – Land purchased or appropriated specifically for allotment use by an allotment authority (parish or district councils). This can be disposed of only with the consent of the Secretary of State who must be satisfied that adequate alternative provision is made for displaced ploholders. Alternative provision is normally to be provided within $\frac{3}{4}$ miles of the ploholders homes.

Temporary – Land which is in the local authority's ownership but for another purpose and used as allotments on a temporary basis (until required for its original purpose). There are no restrictions on the disposal of such land by the Local authority.

Private – Land in private ownership receives no protection from the Allotment Acts. Landlords can include other County/other local councils, companies, private individuals, charities, church commissioners, rail companies, water companies and even allotment associations.

Planning Policy

Planning Policy Guidelines 3 (PPG3) states that allotment land must not be considered as previously developed land (brownfield sites) and Planning Policy Guidelines 17 (PPG17) makes it clear that development should not take precedence over open space use.

While allotments are excluded from the definition of brownfield sites under PPG3, this would not mean that such sites are automatically ruled out from development. Policy does not rule out sustainable green field development build where it is shown to be needed.

However, this general PPG17 policy of the Department for Communities and Local Government (DCLG), formerly the Office of the Deputy Prime Minister (ODPM) makes it clear that new housing development should not take place at the expense of recreational open space. Where planning permission is granted for new development, in particular housing, local authorities should ensure provision is made for local sport and recreational facilities, either by increasing the number of facilities or by improving existing facilities.

PPG17 also states existing open space should not be built on unless an assessment has been undertaken, which clearly shows the open space to be surplus to requirements. Local Authorities are required to undertake a robust audit of existing space and to assess the need, in its area, in both protecting existing facilities and planning for new ones where needed. It is expected that by implementing the guidance in PPG17, adequate provision for allotments and other open spaces should be made.

Statutory sites

Where a local authority wishes to dispose of a statutory site, application must be made to the Secretary of State under Section 8 of the 1925 Allotment Act.

In February 2002, PPG17 for Sport, Open Space and Recreation was strengthened and the criteria clarified:

- o **The allotment in question is not necessary and is surplus to requirements;**
- o **Adequate provision will be made for displaced plot holders, or that such provision is not necessary or is impracticable;**

- o **The number of people on the waiting list has been effectively taken into account;**
- o **The authority has actively promoted and publicised the availability of allotment sites and has contacted The National Society of Allotment and Leisure Gardeners;**
- o **The implications of disposal for other relevant policies, in particular development plan policies, have been taken into account.**

NSALG is consulted as part of the formal application process and has the opportunity to comment on every application made. NSALG should be advised immediately a statutory site is under threat to enable ploholders' comments to be passed to the relevant Government Office. It is also advisable for ploholders either separately or collectively to make representations and/or objections.

Where alternative land has been offered it will be necessary to consider whether it is adequate for allotment purposes or not. An existing and occupied site will be more difficult to show to be unsuitable, unless of inferior quality or the facilities provided are inferior to those on the existing site.

Grounds that might favourably influence the decision include the current occupancy level, distance from ploholders' homes, soil condition and whether adequate promotion of the site has been made. Maintenance or the lack of it might also be taken into consideration if it can be proved that this has contributed to dereliction of the site.

In general terms, if a site is long term vacant it will be necessary to prove that the land is, or will in the future, be required for allotment purposes to influence the decision. Alternatively, if it can be shown that an alternative open space use of the land is needed it might be possible for the land to be retained for such purpose. However there is a risk with this strategy that the land might still be lost to allotment use.

Where other planning issues are involved, a Public Enquiry may be called. However this is not automatic for every application.

Temporary sites

Although there is no legal requirement for such sites to be replaced automatically, the local authority will still be under a legal duty to provide a sufficient number of allotments where there is a demand and clearly, it must find alternative plots for displaced ploholders. However, it can look at its overall existing provision and where there are sufficient replacement plots it will be under no obligation to make additional provision. If the existing provision is not sufficient then it will be under a duty to provide more plots.

Private sites

Owners of private allotment sites are under no legal obligation to provide allotments, but as with temporary allotments, if private land is disposed of, the allotment authority will be required to look at its overall allotment provision in its area (not necessarily the immediate locality) to determine whether existing provision is adequate. If not then it is the duty of the local authority to make additional provision.

Planning Permission

It is the view of DCLG that consent of the Secretary of State is required before an application for Planning Permission is made, but in practice, it is often the other way round.

Any person affected by a planning application has the right to object. This should usually be on planning grounds, but can include the loss of allotments as an amenity. Objection can also be made if the local authority has not made an assessment of need or robust audit of existing open space as required by PPG17.

In the event of planning permission being granted there is no right of appeal.

Section 106 Agreements

Planning obligations (section 106 agreements) are an important part of the planning system. This is a commitment made by a developer (when obtaining planning permission) to do that which will lessen the 'harm' caused by any such development

Information and action plan where allotment land is threatened

- Form an allotment association affiliated to the National Society of Allotment and Leisure Gardeners Ltd. This enables a stronger and united voice to be heard and has the support of NSALG's legal department.
- Section 23 Small Holdings & Allotments Act 1908 places a statutory duty on local authorities (LA) to provide a sufficient number of allotments to persons desiring to take the same.
- Section 23 further states that if six registered Parliamentary electors or ratepayers within the borough make representation to the LA that allotments are required; the LA shall consider any such representations.
- Mobilise support of ploholders and seek the support of:
 - o residents and the local community
 - o local Ward Councillors
 - o your local MP
 - o the local media in your campaign to save the site.
- Write to Government Regional Office to object.
- The LA should be asked whether it has made and taken into account, the 'robust analysis of Open Space' suggested in PPG17.
- The LA should be reminded of Section 2 subsection paragraph (b) Local Government Act 2000 – 'the promotion or improvement of the social well-being of their area'.
- The LA should be reminded of Section 2 subsection (1) paragraph (c) of the 2000 Act – 'the promotion or improvement of the environmental well-being of their area'.
- Examine any proposal to replace the allotments with an open mind, as in certain circumstances; it may be advantageous to move.

The only sure way to protect an allotment is to ensure that it is fully occupied at all times.

Private sites

- If the site is private, ask the local authority if it intends providing replacement plots for displaced ploholders and remind it of its statutory duty to provide.
- If there is no alternative land available ask the local authority to consider compulsory purchase of the site. However, the local authority can only do this if it has exhausted all other possibilities of finding alternative land.
- If the value of the land is high then the local authority can apply to its County Council for a compulsory hiring order.
- If the site is rented from a private owner by the local authority enquire whether the owner would prefer to let the site direct.
- Seek the support of local residents, local Councillors, your MP and involve the local media in your campaign to save the site.

Useful Organisations

Planning Aid

(Royal Town Planning Institute)
www.planningaid.rtpi.org.uk

Provides free planning advice to people and organisations who cannot afford to hire a planning consultant. A Planning Pack is available to download.

Department for Communities and Local Government

www.communities.gov.uk

- Planning Policy Guidance notes
- Allotments: A Plotholder's Guide



National Society of Allotment & Leisure Gardeners Limited

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Advice and Services

The Society offers a range of advice to members on allotment and society matters including the following:

- Closure/sale of allotments
- Rents-Leases
- Tenancy Agreements – Landlord problems
- Termination of tenancies
- Self-Management Schemes
- Management Agreements
- Site Facilities – layout of sites
- Duty to provide allotments
- Insurance (through Newspace Insurance Services Ltd)
- Compensation
- Fences and Boundaries
- Town Planning/Local Plans
- Ombudsman – public enquiries
- Store Hut Trading
- Bonfires