

# Kendal Town Council

Town Hall, Highgate, Kendal LA9 4ED  
www.kendaltowncouncil.gov.uk



12 July 2022

To Members of the Allotments Committee and Site Representatives

Cllr G Archibald (Vice Chair)	Cllr K Blamire
Cllr S Coleman	Cllr J Cornthwaite
Cllr A Finch (Chair)	Cllr C Hardy

## Site Representatives as appropriate

Canal Head	Deborah Allison	Sedbergh Road	Paul Huggonson
Castle Drive	Mrs E Kelly	Shaws Brow	Vacancy
Greenside	Kim Baker	Town View	Vacancy
Greenside	Ali Paddle	Underley Hill	Vacancy
Natland Road	Vacancy	Underley Road	Chris Rowley
Rinkfield	Tony Hayton	Wattsfield	Ros Taylor
Sandylands	Vacancy	Coley Barn	Eric Ashton
Castle Hags Ext	Jon Cox	Crow Tree	Brian Hill
Castle Hags	Gwen Tordoff		

You are invited to a meeting of Kendal Town Council Allotments Committee on **Monday, 18 July 2022, at 7.00 p.m., at the Town Hall, Highgate, Kendal.**

Yours faithfully

Chris Bagshaw  
Town Clerk

## AGENDA

### Public Participation

Any member of the public who wishes to ask a question, make representations or present a deputation or petition at this meeting should apply to do so before the commencement of the meeting. Information on how to make the application is available on the Council's Website - <http://www.kendaltowncouncil.gov.uk/kendal-town-council/statutory-information/guidance-on-public-participation-at-kendal-town-council-meetings/> or by contacting the Town Clerk on 01539 793490.

#### 1. Apologies

To receive and accept any apologies. If accepted, apologies will be considered to be for reasons approved by the council under the terms of local government act 1972, s85.

#### 2. Declarations of Interest

To receive declarations by members and/or co-optees of interests in respect of items on this agenda.

**3. Exclusion of Press and Public (Public Bodies Admission to Meetings Act 1960)**

To consider whether there are any agenda items during consideration of which the press and public should be excluded.

**4. Minutes from the Last Meeting**

To receive the minutes of the meeting of the Allotments Committee held on 28 March 2022 and to authorise the Chair to sign them as a true record.

**5. Path Repairs at Sandylands Allotments**

To receive a report and request for co-funding from Cllr Shirley Evans, Cumbria County Council, for a project improving connectivity between Fowl Ing Lane and Jenkins Rise.

**Background**

The Town Council has had problems with the surface of the footpath which runs through the heart of the Sandylands allotment. At its lowest point it floods and becomes very muddy and virtually impassable after rain. In winter the route is often unusable. Cllr Evans is supporting a Cumbria County Council footpath improvement scheme for the right of way between Fowl Ing Lane and Jenkin Rise, which includes the section of path through the allotment. It is the main access path to the allotments from most locations. The Town Council has attempted to patch this path on a number of occasions and had scheduled further work this winter – mostly the compacting of self-binding aggregate on the worst bits. The land is owned by South Lakeland District Council, but the Town Council's allotment tenancy covers the whole of their landholding in this field.

**6. Review of Spend against Budget**

To consider a report on budget spending (see attached).

**7. Asbestos Site Investigation – Underley Hill Allotment Gardens**

The Council has been quoted up to £3,755 to investigate the extent of the asbestos contamination at Underley Hill Allotment Gardens. The Committee is required to consider the quote and to indicate its approval for a timescale of appropriate works.

**8. Cockerels on Coley Barn Allotments**

To consider options to address the situation.

**9. Rabbit Control**

To consider what measures the Council can take to protect itself and allotment holders from rabbit infestations from surrounding land.

**10. Waiting List**

To consider an update report on the Allotments Waiting List.

**11. Site Representatives**

To consider verbal reports from Site Representatives, and to consider what actions may be taken where no site representative has been present.

**12. Project Updates**

To receive verbal reports from officers on other projects and longer-term plans.

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## Minutes of the meeting of the Allotments Committee meeting held on Monday, 28 March 2022 at the Town Hall (Georgian Room), Highgate, Kendal, 7.00 pm.

Cllr G Archibald (Vice Chair)	Present	Cllr A Finch (Chair)	Present
Cllr S Coleman	Present	Cllr C Hardy	Absent
Cllr J Cornthwaite	Present	Cllr D Miles	Absent

### Site Representatives present

Canal Head	Deborah Allison
Underley Road	Chris Rowley
Wattsfield	Ros Taylor

**In attendance:** Chris Bagshaw (Town Clerk), Janine Holt (Council Services Officer), Pierre Labat, (Townscape Officer).

### A27/21/22 Apologies

None

### A28/21/22 Declarations of Interest

Cllr Finch reminded the Committee of his existing interest in item 6 (poly tunnels). All present councillors observed their interest in item 7 (Nobles Rest), because they are also members of South Lakeland District Council (SLDC).

### A29/21/22 Exclusion of Press and Public (Public Bodies Admission to Meetings Act 1960)

No issues were considered for exclusion.

### A30/21/22 Minutes of the Previous Meeting

The Committee received the minutes of the previous meeting held on 29 November 2021

**Resolved:** To accept them as a true record.

### A31/21/22 Review of Spend against Budget

Councillors welcomed the latest format of the report, which answered the queries from previous meetings. The Council Services Officer reported that she expected a slight overspend on water, due to unforeseen and excessive use at Greenside. The Committee considered the nature of this use, and the difficulty of monitoring it. Two proposed controls were discussed – a cattle trough system and a push-tap system. The Council Services Officer confirmed that she would be writing to tenants to remind them of their duty not to use water excessively. It was agreed that up to six new push-taps should be installed to reduce

the risk of water loss. The Townscape Officer estimated around £40 per tap with additional costs for infrastructure.

**Resolved:** To fit new push-taps at Greenside to reduce water use.

**Resolved:** To accept the report.

### **A32/21/22 Poly Tunnel Policy**

The Committee considered an update to the Poly-tunnel policy which allowed for slightly larger structures, and devolved the power to determine whether a structure was compliant to Council officers. There was some discussion about the sustainability of some plastics, and it was noted that it remained policy for all structures to be removed at the end of a tenancy. The Council Services Officer confirmed that she would be monitoring the extent of poly-tunnel use across the estate during her site visits, including an assessment of any legacy structures which might be considered anomalous.

**Resolved:** To accept the amendments and adopt the Policy.

### **A33/21/22 Nobles Rest/Town Head View boundary**

The Clerk reported an issue which had arisen with the Council's landowner at Town Head View allotments. A wall forming the boundary of the Nobles Rest park has collapsed and SLDC officers are suggesting that it forms part of the boundary of the allotment and therefore is the liability of the Town Council. A figure of £1,400 has been suggested as a likely cost. However, the Clerk has observed that the wall does not form the boundary of the allotment – this being an adjacent post and wire fence. Noting their conflict of interest as SLDC councillors, too, the councillors on the committee were of the view that a third party determination of the issue would be required. Similar issues might also arise at other sites – Canal Head, Castle Higgs, Wattsfield and Underley were cited as potential problem sites where the boundary was effectively a party wall. The current tenancy with the District does not specify any boundary treatments.

**Resolved:** To recommend that the Town Council seeks legal advice on the precise extent of the liabilities for boundary maintenance on all the allotments where SLDC is either the landowner or the neighbouring party, and to work with colleagues at SLDC to resolve the issue.

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### **A34/21/22 Site Representatives Reports**

The rep from Canal Head reported a failure in the rabbit fence in a corner of the site. The Townscape Officer confirmed he would attend and fix as required.

The Wattsfield rep sought clarification of the timescale for the fencing installation. The Council Services Officer confirmed it would be in May for the side quoted. Subsequent sides of fencing were subject to the quoting process, which was causing delays. The committee confirmed that it was happy for the Council Services Officer to complete their best endeavours in obtaining the necessary value for money, and that the subsequent quotations can be approved by the Chair if within the required parameters of Financial regulations.

The Underley rep queried whether the Town Council had been asked to pay for the tree damage caused by Storm Arwen. The Council Services Officer confirmed that no request for payment had been received from SLDC.

**Resolved:** To note the reports and delegate the decision on Wattsfield fencing appropriately.

### **A35/21/22 Project Updates**

The Council Services Officer reported that the Waiting List was static, with new applicants roughly equal to the recent letting of plots. Five plots were currently vacant, 15 had been let since the last meeting and 7 tenants were in arrears with their rent. Appropriate termination notice letters will be sent out at the year end if these accounts are not settled.

- A quote was awaited from a firm specialising in soil surveys for the extent of asbestos contamination at Underley Hil.
- The gabions at Coley Barn had been successfully installed.
- A new pest control contractor has been commissioned to deal with the backlog of complaints about rats across the estate.
- Regular meetings with Site Reps are to be re-established, and the Waste into Wellbeing project will be one of the issues considered.
- The Canal Head project had been revisited, and a revised specification had trimmed £8,000 from the cost. Following trial soil quality pits, it had been suggested that the full import of new top soil was unnecessary, and the necessity for heavy tractor work was much less than first thought. The new cost was £16,843 ex VAT. There was some discussion about the desirability of maintaining a light touch across the new plots, in terms of machinery, but it was suggested that some of the saving could be deployed to ensure any particularly problematic roots or stumps could be ground out.
- It was suggested that new tenants might be offered a time limited concession if they were taking on a plot that was not spade-ready.

There was some discussion about the necessity and imminence of regular site visits, and the Council Services Officer that these would take place in conjunction with the Chair and any councillors who were interested during April.

Issues were raised about tyres and the use of black plastic as a weed barrier, and it was noted that this was usually picked up in inspection if it was problematic. An issue with a tenant displaying anti-social behaviour was considered, and this too would be picked up during inspections.

**Resolved:** To note the report and accept the revised costings for Canal Head with the additional resource for grinding and the time limited concessions as required.

### **A36/21/22 Project Updates Cockerels**

The Council Services Officer reported that she had received some serious complaints about the nuisance of cockerels on Coley Barn. It was noted that although the Council did not generally allow cockerels on the estate, a dispensation had been given to two tenants on Coley Barn in 2015, because they were considered to be keepers of nationally or regionally important rare breed stock. Since then, there had been no further complaints until recently.

She was unaware of the reason, and efforts to identify which cockerels were causing the nuisance had been difficult. The Chair confirmed that there were a number of unauthorised cockerels on the site and that it may be necessary to revisit the ruling which allowed some but not others. The Committee agreed that this matter should be dealt with with some urgency and that it would be appropriate to hold an additional meeting of the Committee with this issue as the sole item. Councillors on the Committee with a specific interest in hens and cockerels on the site would be considered to have a pecuniary interest for the purposes of the Localism Act 2011.

**Resolved:** To arrange an extraordinary meeting of the Committee with the presence of cockerels on the allotment estate as the single agenda item. Background papers covering the legal position and history of the Council's provision would need to be prepared. A date would be arranged in April.

The meeting closed at 20.40

Income/Exp

<u>ALLOTMENTS</u>			
Capital Spending	£40,000		
Revenue Spending/Main	£8,000	£1,641	
Water	£1,800	£450	
Rent	£900	£840	
Pest Control	£3,000	£1,196	
<u>Total Allotments</u>	<u>£53,700</u>	<u>£4,126</u>	<u>£53,700</u>

Est - All current Water Bills are estimates

# Kendal Town Council Report

To: Allotments Committee	11 <sup>th</sup> July 2022
From: Council Services Officer	Agenda Item No.

## **COCKERELS ON COLEY BARN ALLOTMENTS**

### **Background**

In 2015 a complaint by a member of the public was received with regard to the noise nuisance of the cockerels on Coley Barn allotments. At that time, the Committee agreed that cockerels would be permitted in exceptional circumstances, the tenant had to provide robust evidence to support their need for a cockerel/s. Two tenants had approval granted, the main basis of the approval was that they had rare breed birds. The birds were used for breeding to ensure the survival of bloodline. In the interim period, no further complaints were received.

### **Current Situation**

In November 2021 a complaint was received from a local resident about the noise nuisance caused by the cockerels on Coley Barn. The resident finds the situation intolerable and has reported it to the Environment Protection department of South Lakeland District Council (SLDC). I have liaised with an Officer from Environment Protection and he has confirmed that the current noise caused by the cockerels is above the acceptable level and is a legal nuisance. The Town Council, as landowners, are obliged to resolve the issue or face fines and legal costs.

### **Allotment Acts**

The Allotment Acts (Allotments Acts 1922, 1925, 1950; the Land Settlement Facilities Act 1919; the Small Holdings and Allotment Acts 1908, 1926) which define an allotment as a piece of land 'wholly or mainly cultivated by the occupier for the production of vegetable or fruit crops for consumption by himself or his family' (Allotment Act, 1922), make no specific reference to cockerels, but reserve the right of the council to specify what rules are required within this framework. Under no allotment act is there any reference to the keeping of cockerels. The 1950 Act made it unlawful for a council to ban the keeping of hens (or rabbits), with the proviso that 'any hens or rabbits to kept in such a place, or in such a manner as to be prejudicial to health or a nuisance or affect the operation of any enactment'.

### **Control of Pollution Act 1974 (as amended).**

Cockerels, on an allotment in an urban environment can be the source of what this Act calls 'noise nuisance', and this is the origin of the council's ban. It is unlikely that any such prohibition might apply to an allotment site in a rural environment: if a person were to move to the country next to allotment site with cockerels, then that is something that they might have to accept.

### **Information from National Allotment Society**

The advice given was that although it is best practice, for a number of reasons, not to allow cockerels on allotments, there is no definitive law and the 1974 Control of Pollution Act (as amended) is open to interpretation. The association stated that if



the land owner permitted cockerels and there were no byelaws to the contrary, then cockerels could be housed on the allotment, subject to nuisance regulations.

The Council Services Officer undertook some research to ascertain if there were any byelaws in place on Coley Barn allotments. The search was difficult, as there is not central database of the information, but no byelaws could be found relating to Coley Barn allotments.

Kendal Town Council own the land on which Coley Barn allotments are sited.

Kendal Town Council manage a number of allotments on land owned by South Lakeland District Council (SLDC). The district council, as landowners do not permit cockerels to be kept on allotment land they own, under any circumstances.

### **Options for Consideration**

1. To not permit cockerels on any allotments. This will uphold the terms of the tenancy agreement, and would result in Notices being served in due course on several tenants at Coley Barn.
2. To allow cockerels on any allotment. This would leave the council open to prosecution by the District Council, if the cockerels at Coley Barn were shown to exceed legally acceptable noise levels.
3. To allow cockerels in exceptional circumstances. The plot holder would have to provide robust evidence as to the reasons for keeping a cockerel and would be subject to a trial period with restrictions in place. The situation would have to be closely monitored and the views of the surrounding residential area sought. This is the 'Status Quo' situation as it applied at Coley Barn until recently, when it emerged that several cockerels were being kept on the site without permission.

For options 2 & 3 the tenancy agreement would have to be amended to reflect the changes and this would be circulated to all tenants at the next invoicing – Dec 2022. The exact wording of the tenancy agreement would have to be discussed at the allotments committee and approved by them. Note this could only be applied to KTC owned sites.

The allotments committee would have to approve each application to keep a cockerel prior to the bird being brought onto the site.

No cockerels are to be permitted onto the allotment site without prior approval.

To address the current situation with the tenant at Coley Barn, there would need to be approval from Council for his keeping of specific rare breed cockerels (along lines of option 3) in advance of a change to the Tenancy Agreement.

Report prepared by Council Services Officer – 11<sup>th</sup> July 2022.

## Allotments Committee 18<sup>th</sup> July 2022

### Waiting List Update

I am finding that I am offering plots but either getting no response, or the prospective tenants no longer require an allotment. This is time consuming and resulting in plots being unworked for a considerable length of time. I suspect I will encounter this problem for some time until I have offered plots to all the people who joined the list during lockdown in 2020.

The waiting list currently stands at 151 individuals.

Allotment site	Number of plots per site	Number on the waiting list	Change since last meeting
Aynam Road	3	7	No change
Canal Head	20	34	-3
Castle Drive	9	7	-1
Castle Hags	33	39	-4
Castle Hags Ext	47	38	-3
Coley Barn	44	20	+2
Crow Tree	24	26	+6
Greenside	48	23	No change
Natland Road	19	17	-3
Rinkfield	32	25	No change
Sandylands	25	13	+2
Sedbergh Road	42	4	-7
Shaw's Brow	22	17	+6
Town View	19	11	+5
Underley Hill	27	8	-4
Underley Road	36	12	+4
Wattsfield	42	24	+3

### Vacant Plots

10 plots are currently on offer to prospective tenants and 1 plot vacant.

### Number of Plots Let Since Last Meeting

I have let 18 plots since the last meeting.