

Allotments & Garden Lets Policy

For Consultation

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1. INTRODUCTION

Rossendale Borough Council has produced an Allotment and Garden Let Policy to establish a policy framework for the management, and administration, of its allotments and garden lets within in Rossendale.

Rossendale Borough Council has a statutory duty to provide allotments and recognises them as an important asset. There is a complex network of legislation relating to allotment administration, which is governed by statute and case law. The legal framework that has developed since 1908 has established a model for the administrative process. It is essential that as the allotment authority, the Council is aware of its duties and observes precedents that have been set.

The legislation which directly affects allotment administration and the development constraints on this strategy are known collectively as The Allotment Acts and will be referred to throughout this Policy.

This Policy also covers the provisions relating to Garden Lets. Garden Lets are defined as a piece of land owned by the Council where an individual has requested a tenancy to maintain a garden on that piece of land.

2. AIMS AND OBJECTIVES

The aims of the Policy are set within the overall framework and operation of the Council's Priorities and the Place Business Plan. The Council administers three none statutory allotment sites¹ and sixty eight Garden Lets. Allotment sites are usually larger pieces of Council land split into individually measured plots. Garden Lets tend to be smaller pieces of Council land and may comprise just one garden.

The aims of the Policy are:

- To confirm the Council's commitment to the provision of land for the use of gardening, and the growing of vegetables.
- To develop and implement an effective management and administration process in relation to allotments and garden lets.
- To improve customer satisfaction and tenant participation in the management of sites.

3. ROSSENDALE ALLOTMENTS

Rossendale Borough Council administers three none statutory allotment sites containing a total of seventy one plots. The allotments reside on Council land and are used for the purpose of allotments rather than land purchased under the Allotments Acts legislation. Their locations are as follows:

- Free Lane, Helmshore – 52 Plots
- Kirk Hill, Haslingden – 11 Plots
- Prinny Hill, Haslingden – 8 Plots

¹ Referred to as allotment throughout this policy

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Allotments are measured in rods an old Anglo-Saxon measurement, so called because it was the length of the rod used to control a team of eight oxen. A full plot is approximately 10 rods or 250m² in size. A half plot is approximately 5 rods or 125m² in size. In addition, there are a number of private allotments within the Borough.

3.1 Register of tenants/waiting lists in relation to allotments

The Communities Team maintains the register of tenants and a waiting list of Rossendale residents who have expressed a wish to be allocated a plot to one of the existing allotments within the Borough. All new tenants are required to sign a tenancy agreement.

The waiting lists are maintained on a first come, first allocated basis for each site. Tenants are not permitted to underlet, assign or part with the possession of the allotment garden.

3.2 Allotment Administration

Administrative support in relation to the provision of Rossendale allotments is provided by the Communities Team. Enquiries and complaints are dealt with by the Communities Team and in accordance with Council procedures. The Communities Team is responsible for maintaining the website and information for customers in relation to allotments.

3.3 Inspection of Allotments

The Communities Team are responsible for the inspection of the allotments on an annual basis. In addition, the Property Team is responsible for ensuring that any water supply is tested for Legionella.

3.4 Allotment Maintenance

Tenants are required to sign a tenancy agreement. The agreement details the rules in relation to the maintenance of the allotment.

- Tenants are required to keep the allotment/garden clean in a good state of cultivation and fertility and in good condition. The tenant shall not cause any nuisance or annoyance to the occupier of any adjoining land, or obstruct any path set out by the Council for the use of the occupiers of the allotment gardens. The tenant shall not without written consent of the Council, cut or prune trees or take, sell or carry away any mineral, clay or sand. It is the responsibility of the tenant to keep every hedge that forms part of the boundary of their allotment garden properly trimmed, ditches properly cleansed.
- Tenants are required to maintain any fences, gates or sheds on their allotment garden and be aware that the use of barbed wire is forbidden for a fence adjoining any path for the use of the occupiers of the allotment garden.
- Tenants can not erect any building or shed on an allotment garden without the written consent of the Council.
- Tenants must not keep any animals or livestock of any kind on the allotment garden except hens and rabbits to the extent permitted in the Allotments Act 1950 Section 12 and any dogs should be kept on leads.

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- Any children under the age of 15 years have to be supervised at all times and accompanied by the tenant.
- Where there is an association in place, tenants are required to be a member and abide by the rules of the association.
- Responsibility for minor paths lies with the plot holders.
- Allotments should not be used for commercial gain.
- The use of water butts is encouraged but may present a hazard to young children and wildlife and should therefore be covered when not in use.

3.5 Enforcement

The aforementioned conditions ensure compliance with the tenancy agreement, which is in accordance with the principles of the 'Allotment Acts'. Enforcement is carried out by the Communities Team and can involve a process of serving a warning notice, giving one month to comply with the notice, followed by a notice to quit for non-compliance. Non-cultivation of plots is the most frequent cause for this procedure to be implemented.

3.6 Fees and Charges associated with allotments

There is a one off administrative charge of £40.00 for new tenants plus the annual rental which is currently 0.25p per square metre. Charges will increase in line with the rate of inflation unless otherwise determined by Cabinet.

The annual rental for an allotment plot must be paid quarterly in advance on the first day of April, July, October and January each year. Rossendale Borough Council does not offer any concessions on Allotments.

3.7 How to apply for an allotment

People can apply for a plot by contacting the Communities Team at the Council by telephone or letter and application forms will be sent out. Alternatively an application form can be downloaded from the Council Website and submitted by mail or e-mail. Please see Appendix 1 for the Allotment Customer Request Flow Chart.

Under 18s

Anyone under 18 wishing to become a tenant can only do so if the ownership of the tenancy agreement is taken up by a legal guardian aged over 18. Children under 15 years of age have to be supervised at all times.

3.8 Tenancy

The Tenancy of the allotment garden shall terminate on the yearly rent day after the death of the tenant, and shall also terminate whenever the tenancy or right of the occupation of the Council terminates. It may also be terminated by the Council by re-entry after one month's notice:-

1. If the rent is in arrears for more than 40 days Or
2. If the tenant becomes bankrupt or compounds with their creditors.

The tenancy may also be determined by the Council or the tenant by twelve months' notice in writing expiring on or before 6th April or on or after 29th September in any year.

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The Council supports the principal of devolved management of allotment sites. Longer term tenancies from individuals and tenant associations can be requested via the Property Team who will be responsible for evaluating the request and seeking appropriate permission as per the Council's Constitution.

3.9 Community Groups

Community Groups may identify a potential piece of Council owned land which could be used for allotment purposes. In these cases the Garden Let process detailed below should be followed. As part of the submission the Community Group is required to detail how the land is to be allocated in plots and to individuals within the Group.

4. GARDEN LETS

The Council also administers up to sixty eight Garden Lets in Rossendale. A Garden Let is Rossendale Borough Council owned land, and a tenancy agreement is in place for an individual to use the land for gardening purposes. Administrative support in relation to the provision of Garden Lets is provided by the Property Team. Enquiries and complaints are dealt with by the Property Team and in accordance with Council procedures. The Property Team is responsible for maintaining the website and information for customers in relation to Garden Lets.

4.1 Applications for Garden Lets

The Property Team receive applications for Garden Lets, which are dealt with under the Council's Purchased Lease Rental Policy. Upon receipt of the application the Property Team go through an evaluation process details of which are attached at Appendix 5. This includes an inspection and an assessment of the lands suitability. The assessment process comprises two stages process which incurs fees at each stage.

4.2 Fees and Charges associated with Garden Lets

The final rent/license fees for a Garden Let are based on the rental value for the land assessed by the Property Manager and confirmed by an external assessor. The rental levels of the tenancy are reviewed every two years.

5. LEGISLATION

The Small Holdings & Allotments Act 1908:

This consolidated all previous allotment legislation. It repeats the duty of local authorities to provide allotments.

Land Settlement (Facilities) Act 1919:

This legislation amended the 1908 Act.

The Allotment Act 1922:

The act provides tenants with a measure of security of tenure. This act has since been amended by the Local Government Act 1972.

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Allotment Act 1925:

Requires town-planning authorities to give special consideration to allotments when preparing their town planning and as a consequence is relevant to the Council's Unitary Development Plan and the emerging Local Development Framework.

Small Holding and Allotment Act 1926:

Made a number of improvements to the law mostly concerning smallholdings.

Agricultural Land (Utilisation) Act 1931:

This was passed at a time of economic depression and has little impact today.

Allotment Act 1950:

Strengthened the requirements on Councils to provide allotment gardens. Provisions relating to rents were also affected. This Act included issues relating to notices to quit and compensation.

Town and Country Planning Act 1990 as amended:

Planning and Compulsory Purchase Act 2004:

Have considerable influence on the forward planning of allotments and are relevant to the Council's Unitary Development Plan and the emerging Local Development Framework.

The Local Government Planning & Land Act 1980 and the Local Government & Planning (Amendment) Act 1981:

Consolidated planning legislation, which has further influenced the forward planning of authorities.

6. USEFUL INFORMATION

National Society of Allotment and Leisure Gardeners LTD

O'Dell House, Hunters Road, Corby,

Northants.

NN17 5JE

Email: natsoc@nssalg.org.uk

The welfare of Animals on Allotments – RSPCA Farm Animal Department

Email: farm_animals@rspca.org.uk.

Allotments: A Plot Holders Guide 2006

Email: www.farngarden.org.uk/ari/documents/plotholdersguide.pdf

National Allotment Gardens Trust

NAGT, PO Box 1448, Marston,

Oxford

OX3 3AY

Email: naw@nagtrust.org

Garden Organic

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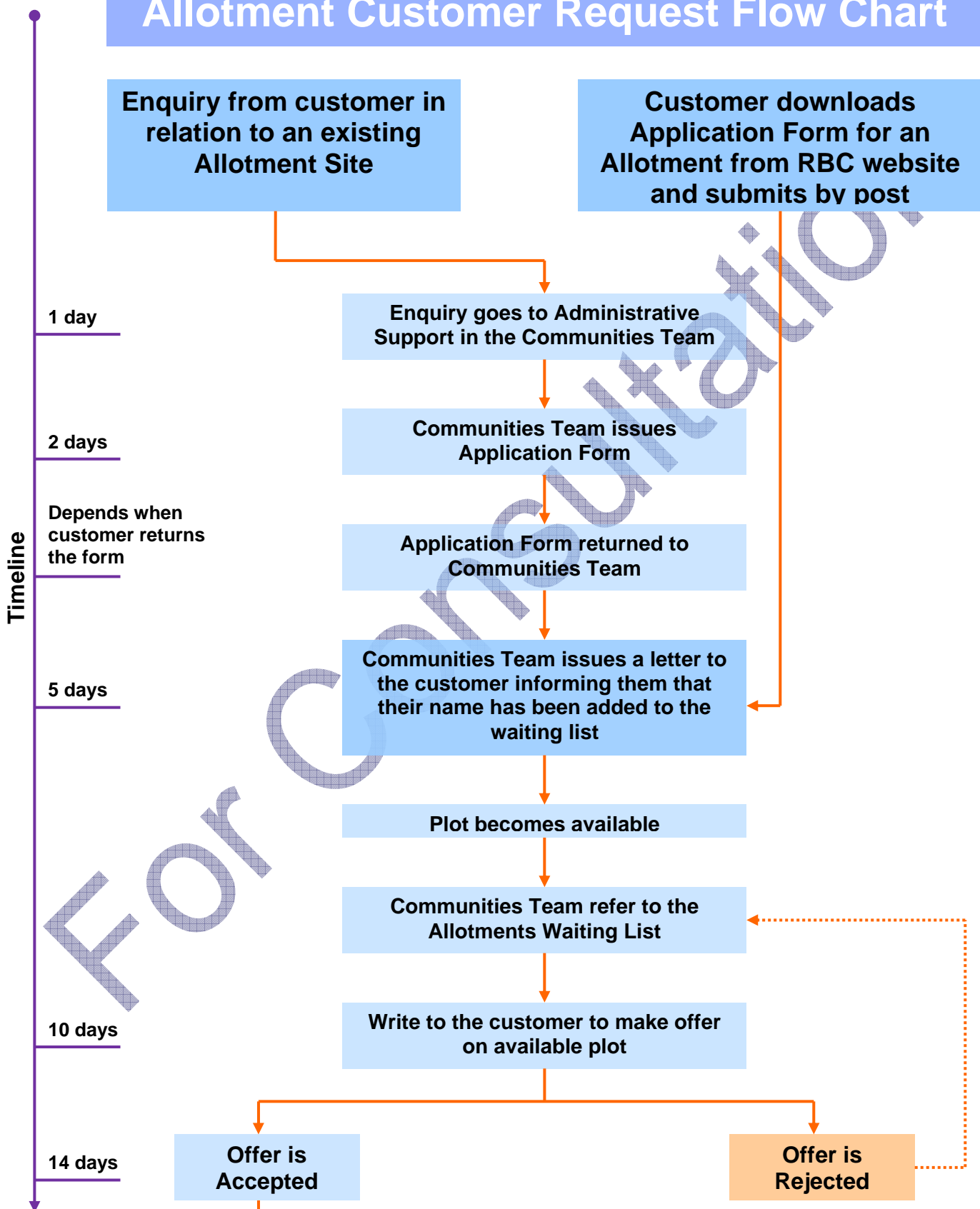
Ryton Organic Gardens,
Coventry
CV8 3LG
Email: enquiry@gardenorganic.org.uk

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Appendix 1

Allotment Customer Request Flow Chart

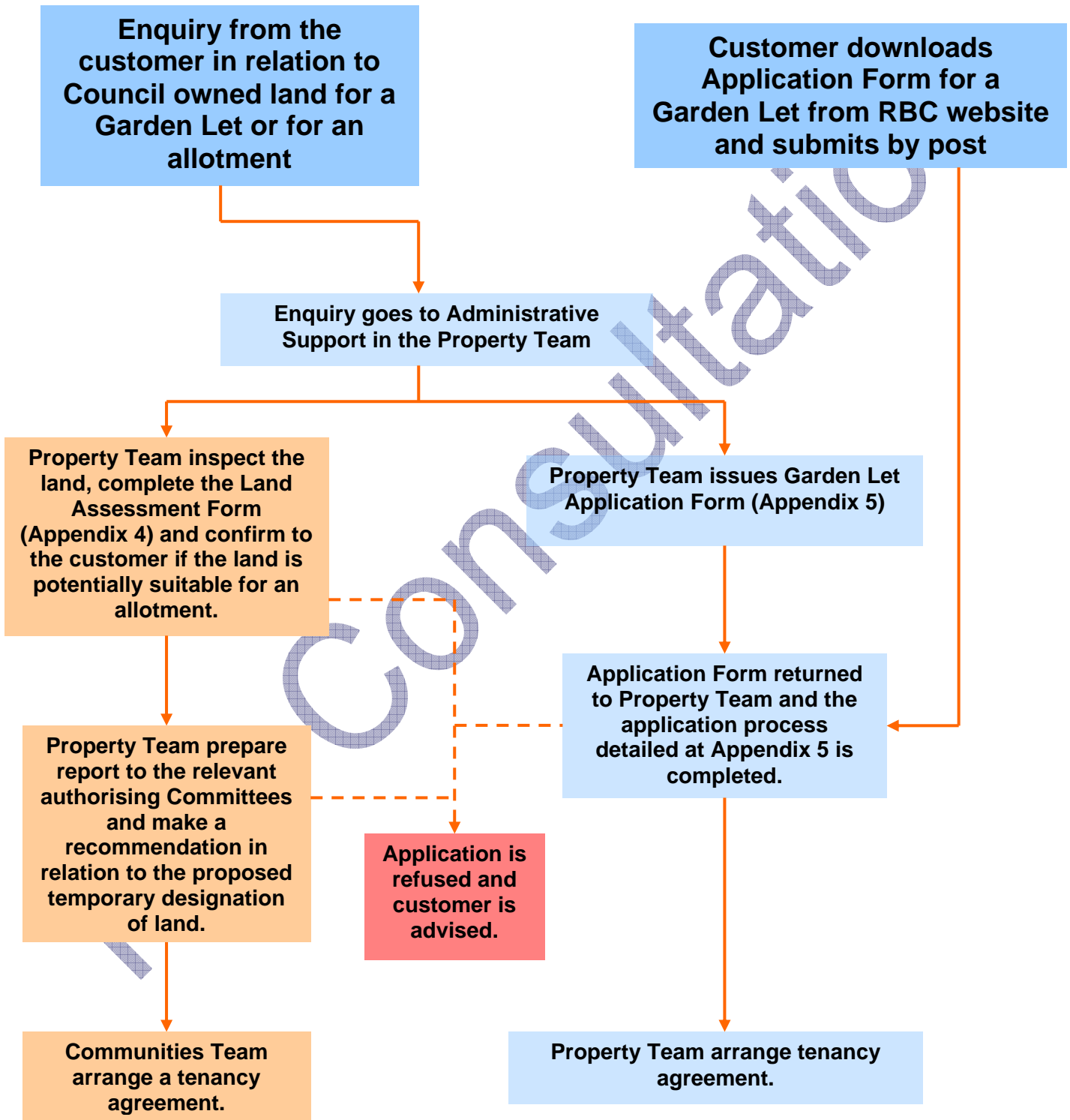


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Customer signs Tenancy Agreement and becomes a Tenant

Appendix 2

Council Land Customer Request Flow Chart



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Appendix 3

List of Garden Lets per Ward

Ward	Number of Garden Plots
Irwell	19
Healey & Whitworth	1
Facit & Shawforth	1
Whitewell	13
Cribden	5
Goodshaw	5
Greenfield	5
Helmshore	4
Hareholme	6
Stacksteads	5
Longholme	4

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Appendix 4

Land Assessment Form For Temporary designation of land for the use of growing vegetables and plants.

Location/Address of the Land [Completed by the Applicant]:

Is the land owned by the Council [Property Team]:

How the land is currently designated [Planning Team]:

How would the land's asset value be affected by the proposal to use the land for the purpose of growing vegetables and gardening. [Property Team]:

Is the land affected by any other project within the Council [Property Team]:

Would planning permission be required to develop the site [Planning Team]:

Is there good access to the site [Property Team]:

Is water available at the site [Property Team]:

Are there any identifiable risks [Property Team]:

Are there any covenants on the land [Legal Team]:

Property Team recommendation:

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Appendix 5

APPLICATION TO PURCHASE/LEASE/RENT COUNCIL LAND [Garden Lets]

APPLICATION NO.

(For official use only)

PLEASE READ THE NOTES OVERLEAF BEFORE COMPLETING THIS FORM

<p>1. Name and address of applicant</p> <p>E-Mail address Day time telephone number</p>	
<p>2. Location of land</p>	
<p>3. State existing use of land</p>	
<p>3. Approximate area of land to be shown edged red on the plans accompanying this application</p> <p>The plans must be purchased prints or reproductions authorised in accordance with a copy right licence (see note 1 over) at a scale no less than 1:1250</p>	
<p>5. Purpose for which land is required</p>	
<p>6. State whether land is to be purchased/leased/rented</p>	
<p>7. If the land is to be leased, state the period for which the land is required (in years)</p>	

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I wish my application to be processed under the Council's Purchase/Lease/Rental Scheme and enclose the initial fee of £85.00. NB: Cheques should be made payable to Rossendale Borough Council. It should be noted that the fee is non refundable.

Date:

Signed

Notes for Applicants

1. This form must be accompanied by two copies of the relevant ordnance survey plan for the area, showing the land in question edged red, and returned to the Property Services Section, Rossendale Borough Council, Futures Park, Bacup, Rossendale.
2. Authorised copies of the ordnance survey plan may be purchased from centre maps. They can be found at 65 Cross St, Sale, Cheshire; or contactable on Tel. 0800 083 1338; or via email maps@mhls.co.uk
3. The procedure for dealing with an application is as follows:-

STAGE 1

Initial application fee - £85.00

A preliminary assessment of the application will be made by the Property Services Manager, which will include an initial consultation period. This preliminary assessment should take approximately 2-3 weeks.

At this point the application may gain Stage 1 approval. This will give the applicant the opportunity to move onto Stage 2, which will require a further fee to cover administration and other related costs.

If the application is refused at Stage 1, it will not proceed.

STAGE 2

Secondary fee - £110.00

Stage 2 of an application should take a further 8-10 weeks and the procedure is as follows:

- i) The Council will publish notice of the application in the local press and will invite representations from the public on the application, to be submitted within 14 days of publication.
NB: The Council may not publish details of applications relating to easements or the release of restrictive covenants.
- ii) The application will be considered in accordance with the Council's constitution under delegated powers. The Property Services Manager will determine the disposal for all land transactions under £100,000 (and where appropriate with approval from the Council's Corporate Property Officer).

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- iii) A record of all decisions involving the acquisition or disposal of land or an interest in land in excess of £15,000 will be maintained by the Property Services Manager. The record of decisions will be available for public inspection during all normal office hours. A copy or part copy of a record (excluding exempt information) will be provided upon payment of a reasonable copying and administrative charge.
- iv) If the land value exceeds £100,000 the application will be referred to the Council's Executive for consideration.
- v) Any particular application where the proposed decision would be in conflict with existing Council policy, or the matter raises new issues of policy will be referred to the Council's Cabinet for consideration.

4. **If the application is approved it should not be taken as any indication of the outcome of a planning application.** If an application is successful the applicant will be also required to obtain any necessary planning consent for the proposed use, and pay the current planning application fee. The Council, as a local planning authority, will consider any application received upon the planning merits and in accordance with planning policy. Applicants are advised to contact the Council's Development Control Section, One Stop Shop, Town Hall Annexe, Lord Street, Rawtenstall – telephone 01706 217777, to discuss proposals before submitting a planning application.

5. If the application is successful and the transaction proceeds the applicant will be required to pay the purchase price or rent payable, plus any additional fees in connection with the transaction:
- i) Council's legal fees (current minimum charge of £110);
 - ii) Council's valuation fees (current minimum charge of £100).

There is no right to appeal a decision on a PLR application. However, if the application is refused, applicants have the opportunity to re-apply without the initial application fee if the same (or modified) application is submitted within six months of the decision.

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