

Great Waltham Parish Council – Briefing Note for Recreation Committee Meeting 21st June 2021

Review of Allotment Agreement Bonfire Rules

Background and Scope

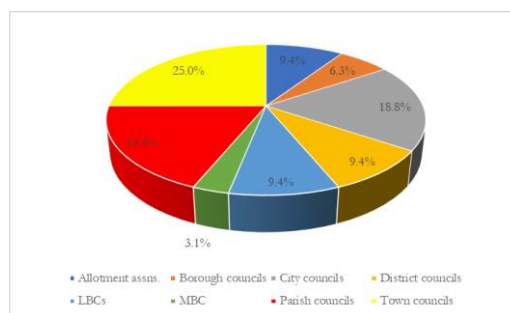
1. This review has been prepared in response to the resolution passed at the Council's Recreation Committee meeting on 12th April 2021. This followed a discussion in relation to the Council's policy on allotment site bonfires between October and March inclusive (the months in which they are permitted under the current Allotments Agreement). The discussion referenced a complaint received following the setting of a fire (within the permitted period) at the Brook Mead allotment site.
2. Although bonfires are not permitted again until October, the review was commissioned in the knowledge that a report back would be needed by the next meeting to ensure that further discussion and any agreed policy changes/actions could be executed on a timely basis.
3. While a precise scope for this report was not detailed specifically, it has been conducted on the basis that the Council is likely to be minded to follow best/good practice exercised elsewhere¹.
4. For information and context, the current GWPC Allotment Agreement states at s.10(f): 'in relation to bonfires:
 - (i) You must avoid burning if at all possible.
 - (ii) These are not permitted at the Allotment Sites between 1st April and 30th September inclusive.
 - (iii) If burning is deemed necessary after September and before April, You may only burn dry, organic material, and only when this does not cause a nuisance to others.
 - (iv) You must not burn material which emits noxious fumes or pollutes the soil.
 - (v) You must not leave a fire unattended.
 - (vi) You must extinguish the fire at the request of another sub-tenant or any resident at a property adjacent to the Allotment Site, or if it is reported to You that it is creating a nuisance. In these circumstances You must make the fire safe before leaving the Allotment Site.
 - (vii) You must remove any unburnable waste from the Allotment Site².

It then has an explanatory note which includes this text:

'While an individual bonfire may be small in the overall scheme of things, each one releases significant amounts of pollutants such as carbon monoxide and dioxins into the air that are damaging to local air quality and to human health. The Council therefore wishes to discourage bonfires on land for which it has responsibilities, hence the nature of the conditions in 10(f) above. The Council hopes that all sub-tenants understand the rationale for its position.³

Methodology

5. The review is based on a desktop study of information available online. In particular, the relevant clauses of allotment agreements used by local authorities and allotment associations. The practices and guidances of 32 organisations were reviewed: 3 allotment associations, 2 borough councils, 6 city councils, 3 district councils, 3 London Borough Councils, 1 metropolitan borough council, 6 parish councils and 8 town councils.



¹ The wording of the (1) agenda item, (2) the minutes of the discussion and (3) resolutions passed were: (1) Allotments – Discuss the Current Parish Council policy on Bonfires between October and March; (2) Long discussion on other Council's (sic) policy and the actions available on our own policy. The large bonfire was dry materials. The E-mail received was noted; and (3) Resolution: Noting that there are no bonfires permitted until October defer any decision until the next committee meeting in June to allow a review; Resolution Cllr Gilbert to undertake the review and report.

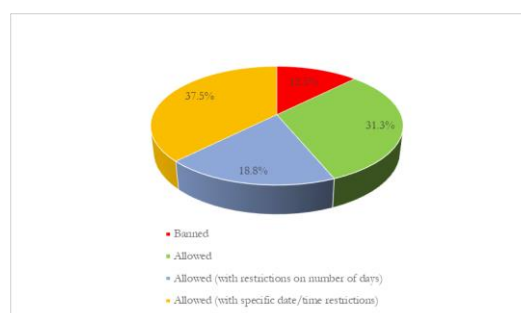
² Great Waltham Parish Council (2020), *Allotment Agreement Conditions of Hiring*, p.6.

³ Ibid.

6. The data collected were assigned to these categories:
- Whether or not bonfires were allowed on allotment sites;
 - If so, whether burning was restricted to particular times of the day; and
 - Whether guidance how to manage the burning process was issued;
 - Notes of general interest on a particular council's/association's overall philosophy.

Findings

7. Information from other parish councils was quite difficult to acquire – while many no doubt issue agreements, relatively few are available online – of the 26 parishes in the Chelmsford City Council area, information for just 4 was available. Indeed, internet searches would fail to find the agreements issued by either GWPC itself or Chelmsford CC. Nevertheless, the level of the issuing authority in the municipal hierarchy does not seem to be an influencing factor in the practical approach to bonfires. That is, the very localised nature of the activity demands similar attention whether at parish, town, borough or city council level. Therefore, the low proportion of parish councils in the sample (18.8%) is not regarded as significant in influencing the findings, conclusions and recommendation detailed elsewhere.
8. In the sample of 32, 4 councils⁴ (12.5%) specifically prohibit bonfires. Conversely, 10 councils⁵ (31.3%) allow burning at any time without any documented restrictions. A further 6 councils⁶ (18.8%) allow all year burning but with other requirements which, in effect, restrict the number of days. The remaining 12 councils/associations⁷ (37.5%) specify months when burning is allowed. Here, the months permitted generally cover October to March, although there are some exceptions. For example, Birmingham City Council restrict to March and November only; Croydon Council to March, November and December only and no more than three in one year; while for Writtle Parish Council tenants burning is allowed in September, October and November only and just between the hours of 16:00 and 19:00.
9. Some councils with multiple sites have bespoke arrangements for each location. Ipswich Borough Council has the most complex arrangements. It is assumed such situations have developed over time to cater for specific factors at each site. For example, the construction of adjacent developments at what historically may have been primarily rural situations.
10. Of the 28 occasions where burning is allowed, only 5 councils (17.6%⁸) also mention specific times or periods of the day (such as daylight hours only⁹; only after 18:00 hours in the summer and 17:00 hours in the winter¹⁰; after 12:00 and extinguished, if not burnt out, by dusk¹¹; after 10.00 a.m. and must be extinguished, if not burnt out, by dusk¹²; and between 16:00 & 19:00 only¹³).



⁴ Bishop's Stortford Town Council, Canvey Island Town Council, Elsenham Parish Council and Leigh-on-Sea Town Council.

⁵ Braintree District Council, Brimscombe & Thrupp Parish Council, Gloucs., City of Bradford MBC, Colchester Borough Council Ealing Council Harlow District Council, Harwich Town Council, Maldon Town Council, Sheffield City Council and Southampton City Council

⁶ Brighton & Hove City Council, Great Baddow Parish Council, Ipswich Borough Council, Margreting Parish Council, South Hanningfield Parish Council and Wakefield Council

⁷ Barnes Allotment Holders and Gardens Association, East Sheen, Birmingham City Council, City of Newcastle Upon Tyne, Croydon Council, Enfield Council, Exmouth Allotments, Hawkenbury Allotment Holders' Association, Royal Tunbridge Wells, St Albans City and District Council, Settle Town Council, Stamford Town Council, Uppingham Town Council and Writtle Parish Council.

⁸ The percentage figures hereafter are proportions of the 28 organisations which allow burning, not the original 32 sampled.

⁹ Barnes Allotment Holders and Gardens Association, East Sheen

¹⁰ Harwich Town Council

¹¹ St Albans City and District Council

¹² Settle Town Council

¹³ Writtle Parish Council

11. Again, when burning is allowed, the guidance provided varies. 6 councils¹⁴ (21.4%) provide no advice. 10 councils/association¹⁵ (35.7%) offer 'limited' guidance. The remaining 11 councils and 1 association¹⁶ (42.8%) provide either more comprehensive advice or signpost where it may be found (typically in general bonfire codes which, given they are also residents, allotment holders are presumably expected to be aware of).
12. A number of councils highlight environmental protection legislation in their guidances. However, any expectation that allotment holders will then undertake research and acquaint themselves with full details tends to be implied rather than explicitly stated.
13. The appendix contains the detailed findings.

Conclusions

14. There is no single accepted way of managing the setting of bonfires on allotment sites. While common features are often evident, it is apparent that permissions and guidances have been developed at a local level to address the immediate characteristics and built environment of a particular neighbourhood and/or the proclivities of the administering council/association.
15. Currently only a minority of councils expressly prohibit burning, although the National Allotment Society suggests because 'bonfires can be a real nuisance [...] many landlords are now banning them from allotment sites'¹⁷. It is noticeable that a number of organisations, even though they allow it to take place, request that burning is avoided if possible. For example: 'although fires are permitted on allotments [...], it is essential that this code of practice is strictly followed'¹⁸; 'as a general rule of thumb, Croydon Council encourage plot holders and allotment societies to compost rather than hold regular bonfires'¹⁹; 'only have a bonfire if absolutely necessary'²⁰.
16. A majority of councils/associations which allow burning do so with varying levels of restrictions (permissible months and/or times of day) and guidance/advice.
17. Much of the guidance advice provided covers similar issues and concerns. Understandably these focus on avoiding creating a nuisance and then the practicalities of ensuring that any fire is managed safely, especially ensuring it is extinguished before being left unattended. Interestingly, the National Allotment Society offer one piece of advice which is not replicated in any of the sample agreements; viz. 'never use water to douse a bonfire; it may appear as if the fire has been safely put out but the water only serves to superheat the ashes and they could re-ignite some hours later. When you have to leave the bonfire site always throw soil or sand over it to smother the heat source'²¹.

Recommendations

18. Given that GWPC's current rules reflect a 'middle course' illustrated by the sample and there is no evidence that its current guidance is being systematically misused/abused by allotment site sub-tenants, it is recommended that the current Allotment Agreement wording remains unchanged in terms of when and under what conditions bonfires may be set, with an action to maintain periodic reviews to monitor local issues/concerns and any

¹⁴ Birmingham City Council, Great Baddow Parish Council, Harlow District Council, Margreting Parish Council, South Hanningfield Parish Council and Southampton City Council.

¹⁵ Barnes Allotment Holders and Gardens Association, East Sheen, Brighton & Hove City Council, Brimscombe & Thrupp Parish Council, Gloucs., Ealing Council, Enfield Council, Harwich Town Council, Hawkenbury Allotment Holders' Association, Royal Tunbridge Wells, Sheffield City Council, Uppingham Town Council and Writtle Parish Council

¹⁶ Braintree District Council, City of Bradford MBC, City of Newcastle Upon Tyne, Colchester Borough Council, Croydon Council, Exmouth Allotments, Ipswich Borough Council, Maldon Town Council, St Albans City and District Council, Settle Town Council, Stamford Town Council and Wakefield Council

¹⁷ National Allotment Society (2021), *Compost, bonfires and waste disposal*. Available at: https://www.nsalg.org.uk/wp-content/uploads/2012/09/A5_Compost_Bonfire_and_Waste_LR.pdf. (Accessed 14/04/2021).

¹⁸ Newcastle City Council (2021), *Allotment Fire Code of Practice*. Available at: https://www.whatdotheyknow.com/request/188504/response/462267/attach/4/Code%20of%20Practice.pdf?cookie_passthrough=1. (Accessed 26/04/2021).

¹⁹ Croydon Council (2021), *Allotment Bonfire Rules*. Available at: <https://www.croydon.gov.uk/sites/default/files/articles/downloads/Croydon%20Council%20-%20Allotment%20Bonfire%20Rules.pdf>. (Accessed 14/04/2021).

²⁰ Sheffield City Council (2021), *The Allotment Handbook*, p.33. Available at: <http://btckstorage.blob.core.windows.net/site12437/Sheffield%20Allotment%20Handbook--PDF--2-64MB-.pdf>. (Accessed 14/04/2021).

²¹ *Ibid.*, National Allotment Society.

changes in legislation, updated guidances from organisations such as the National Allotments Society, or revised approaches by other councils/associations²². However, it is also recommended that the guidance and advice in the wording on bonfire management is reviewed to ensure it is as comprehensive and up-to-date as possible on current thinking (see comment regarding NAS advice in paragraph 17 above).

19. Unless they are already in place or contemplated, it is recommended that the Council post notices at the allotment sites to clearly explain the Agreement requirements and its expectations in relation to the setting of bonfires.
20. The existing dialogues between representatives for each allotment site and other allotment holders and those in nearby proprieties should be maintained. This should help to minimise the occasions fires are set and manage any potential conflicts between sub-tenants and/or with other local residents.
21. Complaints about bonfires on the allotment sites should continue to be recorded and monitored by the Parish Clerk, and if necessary, complainants to be provided with the any formal complaints procedures and/or signposted towards the relevant 'noise and nuisance' page on the Chelmsford City Council website²³.

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²² In any event it should be noted that the Agreement requires the Council to give sub-tenants six months' notice of any wording changes.

²³ The relevant page relating to reporting bonfires nuisances is <https://www.chelmsford.gov.uk/environment-and-public-health/noise-and-nuisance/report-an-odour-problem/>.

Appendix

Name	Bonfires Allowed	Time of Day Specified	Guidance Issued	Notes
Great Waltham Parish Council	Oct. to Mar. incl. only	N	Y	The explanatory note in the Agreement says: 'While an individual bonfire may be small in the overall scheme of things, each one releases significant amounts of pollutants such as carbon monoxide and dioxins into the air that are damaging to local air quality and to human health. The Council therefore wishes to discourage bonfires on land for which it has responsibilities [...]'
Barnes Allotment Holders and Gardens Association, East Sheen	16 th Sep. to 30 th Apr. only (excluding Sundays)	Daylight hours only	Y (limited)	Conditions state: 'Only for burning plant matter that cannot be composted (no other materials to be burnt)'.
Birmingham City Council	Mar. & Nov. only	N	N	Allotment Rules state: 'Bonfires are only permitted during the months of March and November for the burning of diseased plant material. Fires must not be allowed to cause a nuisance to neighbouring residents and under no circumstances should be left unattended. Where local circumstances necessitate, bonfires may not be permitted at any time'.
Bishop's Stortford Town Council	N	N/a	Y (limited, see Notes)	Plot holder's Guide says: 'The Council may at any time restrict or prohibit entirely the use of bonfires if deemed necessary to avoid the risk of nuisance'. N.B. Bishop's Stortford Independent reported in September 2020 that 'Bishop's Stortford Town Council has confirmed a ban on bonfires at its 10 allotment sites despite calls for a rethink. [...] The council's ban replaced a convention that bonfires should be lit only for a few days around Guy Fawkes' Night on November 5 and followed years of complaints about smoke and pollution' ²⁴ .
Braintree District Council	Y	N	Y (see Notes)	Agreement not available. 'Allotments' page on website says 'Our rules for having an allotment are in the Tenancy Agreement. We give this to you at the start of the tenancy' and gives limited guidance on bonfire management.
Brighton & Hove City Council	Y (see Notes)	N	Y (limited)	Allotment Rules state; 'All open fires between 1st April and 1st November must be contained within an incinerator barrel, however small contained fires will be permitted for barbequing'.

²⁴ Corr, S. (2020), *Bishop's Stortford Town Council confirms bonfire ban at allotments*. Article in Bishop's Stortford Independent, 23rd September 2020. Available at: <https://www.bishopstortfordindependent.co.uk/news/council-refuses-to-extinguish-ban-on-bonfires-at-allotments-in-stortford-9123642/#:~:text=Bishop's%20Stortford%20Town%20Council%20has,despite%20calls%20for%20a%20rethink>. (Accessed 16th April 2021).

Name	Bonfires Allowed	Time of Day Specified	Guidance Issued	Notes
Brimscombe & Thrupp Parish Council, Gloucs.	Y	N	Y (limited)	Allotment Rules include: 'You may light a bonfire but only to burn materials from your allotment. The only materials you can put on a bonfire are diseased plants and dried-out organic material that will burn without smoke or hazardous residue'.
Canvey Island Town Council	N	N/a	N/a	Allotment Rules says: 'Non-compostable waste must be removed from the site by the Tenant'.
City of Bradford MBC	Y	N	Y	Details 'Advice from the National Society of Allotment and Leisure Gardeners'.
City of Newcastle Upon Tyne	Nov. to Mar. incl. only	N	Y	Agreement says: 'Although fires are permitted on allotments [...], it is essential that this code of practice is strictly followed. Each year, the City Council receives numerous complaints about smoke from allotment fires, which can cause a nuisance to neighbouring residents, and unnecessary air pollution. If you cause a nuisance by having a fire, you could find yourself being prosecuted for breaking the Environmental Protection Act 1990'.
Colchester Borough Council	Y	N	Y	Agreement says: 'The Tenant agrees [...] to comply with the Council's Code of Practice for Bonfires'.
Croydon Council	Mar., Nov. & Dec. only, and no more than 3 in one year	N	Y	Allotment Bonfire Rules: 'No individual plot holders are permitted to have bonfires on their plot. As a general rule of thumb, Croydon Council encourage plot holders and allotment societies to compost rather than hold regular bonfires. All bonfires must be granted permission by Croydon Council and should be arranged on a site-by-site, site wide basis. Bonfires will be arranged with site committees and society contacts where possible, please contact your committee to find out when the next bonfire on your site will be. [...]'
Ealing Council	Y	N	Y (limited)	Allotment Rules include: 'A bonfire must not be allowed to create a nuisance to other tenants or neighbours. Please think about the timing of your bonfire. Having a bonfire on a sunny bank holiday weekend is likely to cause more nuisance than at the end of a dull day in January. Complaints about bonfires are investigated by the pollution control service and can result in a fixed penalty notice, legal action and the termination of the allotment tenancy'.
Elsenham Parish Council	N (see Notes)	N/a	N/a	Agreement says: 'Bonfires will not be permitted in the Allotment Gardens. Vegetable matter shall be composted or removed from the site; however, the use of a purpose-built enclosed incinerator is permitted for disposal of small quantities.

Name	Bonfires Allowed	Time of Day Specified	Guidance Issued	Notes
Enfield Council	Oct. to Mar. incl. only	N	Y (limited)	Agreement includes: 'Tenants must not allow any bonfires to burn in such a way as would cause a smoke nuisance as defined by the Environmental Protection Act 1990, section 79. The tenant may be subject to enforcement action under the terms of that Act if they disregard this condition. If found guilty they will be subject to a loss of the tenancy of the allotment plot'.
Exmouth Allotments	Oct. to Feb. incl. only	N	Y (limited)	The society's committee says it 'would prefer not to revert to a ban on bonfires but that decision will depend on decisions made by HMG, the Town Council and the actions of plot holders. In a nutshell ... <ul style="list-style-type: none"> • Members will be allowed to have up to one bonfire per month from October to February inclusive. • Bonfires are not allowed in March to September inclusive. • Only small amounts of dry organic garden waste that cannot be composted should be burnt. Hot fires of dry material produce least smoke. Timber, such as pallets, old sheds and raised bed timber must not be burnt. • The current rules, copied below, should be followed. • This policy may need to be revised if there is a second wave of Covid-19. [...]
Great Baddow Parish Council	Y/N (see Notes)	N	N	Allotments Terms and Conditions state: '6.5 Bonfires must not be allowed to cause a nuisance to neighbouring tenants and residents and under no circumstances should they be left unattended; 6.6 Bonfires on the Vicarage Lane site should be kept to an absolute minimum; 6.7 On the Towerfield site, bonfires are prohibited because of the site's location in a residential area.
Harlow District Council	Y	N	N	Tenancy agreement is silent on bonfires specifically, but requires the tenant: 'Not to cause any nuisance or annoyance to the occupier of any other Allotment Garden or of any neighbouring land [...]?'.
Harwich Town Council	Y	Y (see Notes)	Y (limited)	Agreement states: 'Bonfires must only occur after 18:00 hours in the summer and 17:00 hours in the winter'.
Hawkenbury Allotment Holders' Association, Royal Tunbridge Wells	Oct. to Mar. incl. only	N	Y (limited)	Bonfire Guidelines include the warning: '[...] bonfires may constitute a 'Statutory Nuisance' under the Environmental Protection Act 1990 and action may be taken against you in the Magistrates' Court which could result in a fine of up to £5000'.

Name	Bonfires Allowed	Time of Day Specified	Guidance Issued	Notes
Ipswich Borough Council	Y (excluding Sundays & Mondays), & different months and number allowed by site ²⁵	Y (varies by site, see footnote 2)	Y	Agreement says: 'A bonfire can be a source of great annoyance to neighbours. The Smoke maybe annoying to others but also be harmful to others particular to people with chest or heart problems. In addition, the substances produced by typical bonfire smoke can be carcinogenic or cancer forming. Please follow the rules below if having a bonfire. Failure to do so may result in eviction or a total ban'.
Leigh-on-Sea Town Council	N	N/a	N	On its website the council has stated that is 'has now agreed that the use of bonfires on Leigh Allotment Sites is strictly prohibited. [...] Recently Southend Borough Council declared a climate emergency and on the website state that bonfires are not recommended, it would be remiss of Leigh-on-Sea Town Council to not follow suit. [...]'].
Maldon Town Council	Y	N	Y	Agreement says: 'Tenants must abide by the attached guidelines issued by the Town Council regarding fires on allotment sites'.
Margretting Parish Council	Y (see Notes)	N	N	Rules and Conditions state: '[The tenant] shall not light any bonfire under conditions in which smoke or flames will cause nuisance or annoyance to the occupiers of adjoining plots, properties or drift across a road so as to create a traffic hazard'
St Albans City and District Council	Oct. to Apr. incl. only (Tuesdays and Saturdays only)	Y (but must be after 12:00 and "extinguished, if not burnt out, by dusk")	Y	Allotment Rules state: 'Bonfires are permitted under certain conditions, which are designed to prevent a nuisance being caused to neighboring (sic) residents and other plot holders. Under the Environmental Protection Act 1990 it is an offence to cause a nuisance through the generation of 'smoke emitted from premises so as to be prejudicial to health or a nuisance'.
Settle Town Council	Oct. to Apr. incl. only	Y (see Notes)	Y	Allotment Bonfire Regulations state: 'Bonfires must not be started before 10.00 a.m. and must be extinguished, if not burnt out, by Dusk' and 'Please compost rather than burn. Many weeds and in fact almost any non-woody plant can be composted; provided that sufficient heat is generated composting will destroy weed seeds [...]'].
Sheffield City Council	Y	N	Y (limited)	Allotment Handbook says: 'Only have a bonfire if absolutely necessary. [W]e encourage tenants to burn as close to November 5th as possible, to minimise burning during the summer months and especially at weekends and Bank Holidays'.

²⁵ IPSWICH BOROUGH COUNCIL ALLOTMENTS. Aster Road: Field 5 Bonfires allowed 1st week of every month; Back Hamlet: Field 26 Field bonfires organised by the Field Secretary are permitted from 1st Oct to 1st March; Belstead: Field 25 Bonfires allowed all year; Bramford Lane: Field 1 Bonfires allowed from 1st November to 1st March; Castle Hill: Field 3 Field bonfires organised by the Field Secretary are permitted all year. Colchester Road: Field 15 Bonfires allowed all year after 3pm; Northgate: Field 14 Bonfires allowed all year after 3pm; Felixstowe Road: Field 22 Bonfires allowed all year; London Road: Fields 7 & 8 Field bonfires organised by the Field Secretary are permitted from 1st Oct to 1st March; Maidenhall: Field 10 Bonfires allowed all year subject to: 1st March until 30th September after 3pm, 1st October until 28th February after 1pm; Morland Road: Field 4 Bonfires allowed all year; Norwich Road: Field 12 Bonfires allowed all year; Spring Road: 1 Field 17 Bonfires allowed 1st week of every month (Alexandra Road Entrance); Spring Road: 2 Field bonfires organised by the Field Secretary are permitted from 1st Oct to 1st March (Spring Road Entrance); Sidegate Lane: Field 16 Bonfires allowed 1st October – 31st March; Whitton Church Lane: Field 19 Bonfires allowed all year.

Name	Bonfires Allowed	Time of Day Specified	Guidance Issued	Notes
South Hanningfield Parish Council	Y (see Notes)	N	N	Rules and Conditions state: '[The tenant] shall not light any bonfire under conditions in which smoke or flames will cause nuisance or annoyance to the occupiers of adjoining plots, properties or drift across a road so as to create a traffic hazard'.
Stamford Town Council	Nov. to Mar incl. only (and see Notes)	N	Y	Current Bonfire Guidelines state: 'From 1st November to 31st March Annually bonfires are allowed with no restrictions on time, from 1st April to 31st October Annually bonfires are only allowed by special permission granted by Stamford Town Council due to blight, plots being cleared, extreme amounts of green waste etc.'.
Southampton City Council	Y	N	N	Agreement wording states: 'You are not allowed to have bonfires that cause a nuisance, or leave fires unattended. Only burn dry material on suitable days'.
Uppingham Town Council	Oct. to Mar. incl. only	N	Y (limited)	Allotment Rules state: 'Bonfires are permitted under certain conditions, which are designed to prevent a nuisance being caused to neighbouring residents and other plot holders'.
Wakefield Council	Y (but see Notes)	N	Y	Allotment Handbook says: 'Only have a bonfire if absolutely necessary. [W]e encourage tenants to burn as close to November 5th as possible, to minimise burning during the summer months and especially at weekends and bank holidays'.
Writtle Parish Council	Sep., Oct. Nov. only	Between 16:00 & 19:00 only	Y (limited)	Agreement says: 'The Council accepts that it is sometimes necessary to burn accumulations of garden rubbish but this course of action should only be taken as a last resort'.