

A G E N D A

Strategic Monitoring Committee

Date: **Wednesday, 10th December, 2008**

Time: **9.30 a.m.**

Place: **The Council Chamber, Brockington, 35
Hafod Road, Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

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Herefordshire Council

AGENDA

for the Meeting of the Strategic Monitoring Committee

To: Councillor PJ Edwards (Chairman)
Councillor WLS Bowen (Vice-Chairman)

Councillors PA Andrews, WU Attfield, KG Grumbley, TM James, RI Matthews,
PM Morgan, AT Oliver, SJ Robertson and JK Swinburne

1. APOLOGIES FOR ABSENCE

To receive apologies for absence.

2. DECLARATIONS OF INTEREST

To receive any declarations of interest by Members in respect of items on the Agenda.

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

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3. MINUTES

To approve and sign the Minutes of the meeting held on 17 November 2008.

Pages

1 - 10

4. SUGGESTIONS FROM MEMBERS OF THE PUBLIC ON ISSUES FOR FUTURE SCRUTINY

To consider suggestions from members of the public on issues the Committee could scrutinise in the future.

5. SMALLHOLDINGS ESTATE STRATEGY REVIEW

To consider the findings of a review of the smallholdings estate strategy.

PUBLIC INFORMATION

HEREFORDSHIRE COUNCIL'S SCRUTINY COMMITTEES

The Council has established Scrutiny Committees for Adult Social Care and Strategic Housing, Childrens' Services, Community Services, Environment, and Health. A Strategic Monitoring Committee scrutinises corporate matters and co-ordinates the work of these Committees.

The purpose of the Committees is to ensure the accountability and transparency of the Council's decision making process.

The principal roles of Scrutiny Committees are to

- Help in developing Council policy
- Probe, investigate, test the options and ask the difficult questions before and after decisions are taken
- Look in more detail at areas of concern which may have been raised by the Cabinet itself, by other Councillors or by members of the public
- "call in" decisions - this is a statutory power which gives Scrutiny Committees the right to place a decision on hold pending further scrutiny.
- Review performance of the Council
- Conduct Best Value reviews
- Undertake external scrutiny work engaging partners and the public

Formal meetings of the Committees are held in public and information on your rights to attend meetings and access to information are set out overleaf

PUBLIC INFORMATION

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1. Identifying Areas for Scrutiny

At the meeting the Chairman will ask the members of the public present if they have any issues which they would like the Scrutiny Committee to investigate, however, there will be no discussion of the issue at the time when the matter is raised. Councillors will research the issue and consider whether it should form part of the Committee's work programme when compared with other competing priorities.

Please note that the Committees can only scrutinise items which fall within their specific remit (see below). If a matter is raised which falls within the remit of another Scrutiny Committee then it will be noted and passed on to the relevant Chairman for their consideration.

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(Please note that the Scrutiny Committees are not able to discuss questions relating to personal or confidential issues.)

Remits of Herefordshire Council's Scrutiny Committees

Adult Social Care and Strategic Housing

*Statutory functions for adult social services including:
Learning Disabilities
Strategic Housing
Supporting People
Public Health*

Children's Services

Provision of services relating to the well-being of children including education, health and social care.

Community Services Scrutiny Committee

*Libraries
Cultural Services including heritage and tourism
Leisure Services
Parks and Countryside
Community Safety
Economic Development
Youth Services*

Health

*Planning, provision and operation of health services affecting the area
Health Improvement
Services provided by the NHS*

Environment

*Environmental Issues
Highways and Transportation*

Strategic Monitoring Committee

*Corporate Strategy and Finance
Resources
Corporate and Customer Services
Human Resources*

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- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Strategic Monitoring Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Monday, 17 November 2008 at 9.30 a.m.

Present: Councillor PJ Edwards (Chairman)
Councillor WLS Bowen (Vice-Chairman)

Councillors: PA Andrews, WU Attfield, KG Grumbley, TM James,
RI Matthews, PM Morgan, AT Oliver, SJ Robertson and JK Swinburne

In attendance: Councillors JP French (Cabinet Member - Corporate and Customer Services and Human Resources) and A Seldon

39. APOLOGIES FOR ABSENCE

Apologies were received from Councillor RJ Phillips (Leader of the Council).

40. DECLARATIONS OF INTEREST

There were no declarations of interest.

41. MINUTES

RESOLVED: That the Minutes of the meeting held on 20 October 2008 be confirmed as a correct record and signed by the Chairman.

42. SUGGESTIONS FROM MEMBERS OF THE PUBLIC ON ISSUES FOR FUTURE SCRUTINY

There were no suggestions from members of the public.

43. INTEGRATED CORPORATE PERFORMANCE REPORT

The Committee considered the Council's performance for the first six months of 2008-09 against the Corporate Plan 2008-11 and national performance indicators used externally to measure the Council's performance, taking account of the separate but complementary financial performance report, risk and progress against the action plans produced following the Crookall review.

The Corporate Policy and Research Manager (CPRM) presented the report, first explaining the changes that had been made to the report's content and format in response to comments made by the Committee in October.

In terms of overall performance he reported that 92 indicators (up from 77 in the last report) were now rated green (on course to achieve target (or establish baseline)), 46 of the indicators in the Corporate Plan were now rated green (up from 32); 55 indicators (up from 46) were rated red (not on target/no activity reported) with 26 of the indicators in the Corporate Plan rated red (up from 21). The proportion of amber indicators (some progress but data not available to determine whether the target will be achieved) was reducing, as was to be expected as the year progressed and the

picture of performance became clearer.

He highlighted the following points:

- There was a mixed picture in Children's Services. However, as indicated in the Director's commentary, performance in children's' social care in relation to the timeliness of assessments and percentage of referrals going on to initial assessment was expected to improve as a result of recruitment campaigns, creating a significant increase in the social worker establishment by January 2009, and the implementation of the new integrated social care system.

There were positive improvements in respect of a number of indicators including NI 67 (child protection cases which were reviewed within required timescales).

All the latest provisional examination results had been marked amber because of the problems that had arisen over the national marking system.

In relation to the corporate risk register, the CPRM drew attention to the four Council risks within the risk assurance framework having a residual score of 15 or more after mitigating action had been taken into account.

In relation to the action plans put in place in response to the Crookall review a further 7 actions had been completed. None of the remainder was red-flagged.

In the course of discussion the following principal points were made (numbering cross-refers to pages in the agenda papers and indicators):

- That whilst overall performance against the Corporate Plan indicators had slightly improved since the last report, the overall direction of travel position (i.e. those indicators currently used by the Audit Commission to assess performance this year compared with last year) had worsened.
- That a number of baselines had yet to be set. In reply, the CPRM said that the Place Survey would help to establish a number of these by March 2009. The Director of Environment and Culture's commentary acknowledged that in relation to national indicators 182-184 there was a significant risk that the data required to set the baselines would not be available at the year end. However, remedial action was underway.
- It was noted that in relation to a number of newly red-rated indicators under the corporate priority of reshaped health and social care, set out at page 10 of the report, the necessary discussions between the Primary Care Trust (PCT) and the Council to get them on track had still not taken place. In reply, it was explained that the PCT had been heavily committed to preparing for the world class commissioning assessments.
- It was believed that a report to Cabinet on affordable housing was still outstanding, making it difficult for the Committee to comment fully on the adequacy of the measures being taken to deliver this corporate priority.
- Members noted the efforts being made to recruit social workers, commenting that this was known to be a nationwide problem. Some concern was expressed that the position might be made worse by the adverse national publicity directed at social workers in the case of the high-profile child protection issue in Haringey.

- The usefulness of Best Value Performance Indicator 100 (p42) was questioned. The CPRM said that the definition was nationally determined. He would ask the Director of Environment and Culture to provide clarification.
- Information was requested on whether all the Council's social workers were qualified, the level of experience post-qualification and the rate of staff turnover.
- Concern was expressed that one of the four risks in the risk assurance framework was, "lack of planning by other parts of the organisation is having significant impact on the ability of ICT to deliver to customer's timescales." The Interim Deputy Chief Executive said that the position was beginning to improve as new, integrated ICT systems were put in place and would be pursued further as part of the current service planning round.
- A question was asked about how the revised travel and subsistence policy had been considered and approved. The Director of Resources replied that the Joint Management Team had approved the revised policy and that Internal Audit Services had been consulted on it.

RESOLVED: That the Committee's observations on the Integrated Corporate Performance report be noted.

44. BUDGET MONITORING 2008/09

The Committee considered the Council's performance against revenue and capital budgets as at 30 September 2008 and an indication of the estimated outturn for the 2008/09 financial year.

The Director of Resources presented the report. She highlighted that since the last report the projected overspend had reduced from £1.671m to £1.292m. This level of overspend could be met from the general balances leaving a reserve of £5.4 million. This was above the minimum recommended level of the general balances of £4.5m. However, she emphasised that Directors were working to balance their budgets.

She outlined the budgetary position for each Directorate as set out in the report. She reported that the reduction in the bank base rate suggested that investment income would reduce in future years. The potential effect was being considered in updating the Medium Term Financial Strategy.

In relation to the Capital Programme the Director of Resources highlighted the forecast outturn, the actual spend to date and the position on capital receipts as set out in the report.

In the ensuing discussion the following principal points were made:

- Clarification was sought and provided on the schools balances held by the Council which stood at some £5.657m.
- Noting that Directorates were seeking to manage overspends by not filling vacancies, it was cautioned that care needed to be taken not to overburden existing staff, which might then lead to a counterproductive increase in sickness absence. The Director of Resources said that each Director was managing the situation carefully to avoid any adverse impact on their teams.

- The Director of Resources acknowledged the pressures on the adult social care budget as a demand led service, but noted the progress that had been made as a result of reconfiguring services.
- In relation to concerns expressed about continuing health care funding as discussed at paragraph 14 of the report the Director of Resources said that the Council and Primary Care Trust (PCT) were looking at eligibility on a case by case basis. There was agreement that the PCT would fund the continuing health care of those who were eligible for it.
- The allocation of central government funding for the 2007 floods was noted. In response to a question the Director of Resources confirmed that expenditure on the 2008 summer floods had exceeded the Bellwin Scheme threshold and a further claim would be made to the Government.
- In reply to concerns expressed about continuing drainage problems, including instances where works had been carried out intended to deal with flooding problems but had proved ineffective, the Director confirmed that eligible claims under the Bellwin Scheme were retrospective and related to damage to infrastructure. However, she would inform the Director of Environment and Culture about the concerns so that he could consider whether these could be addressed through the Capital Programme.
- Clarification was sought on the £92,000 reserve in the Standards Fund and the underspend on dedicated schools grant, which was described in the report as comprising mainly applications for new banded funding. It was agreed to request a written answer from the Director of Children's Services.
- A Member suggested that careful consideration needed to be given to the budget for child protection, the high profile nationally suggesting this may well need to be significantly increased.
- Clarification was sought on the funding paid to the Council associated with the detrunking of the A465, noting that the report referred to a £125k grant having been allocated to the Council for road maintenance. It was agreed that a written answer would be given.
- The reduction in income from car-parks was discussed. The Director of Resources said that Councils across the Country seemed to be having the same experience. Whilst the issue of a free bus pass to those over 60 years old was perhaps part of the answer, the position was complex.
- Concern was recorded that the new waste disposal contract remained to be finalised.
- In response to a request the Director agreed to establish whether confirmation had been received of the percentage of grant for the ARCH project that the Government Office for the West Midlands would claw back.

RESOLVED: That the Committee's observations on the budget monitoring report be noted.

45. INFORMATION AND COMMUNICATION TECHNOLOGY SERVICES - SCRUTINY REVIEW

The Committee considered the final report of the scrutiny review of Information and Communication Technology Services.

The review report had been enclosed separately for Members of the Committee.

Councillor Bowen, Chairman of the Review Group, presented the report commending it to the Committee as a fair and concise report. He thanked members of the Review Group, those who had attended to be interviewed by the Group and officers who had supported the review. He expressed the hope that the Executive would respond promptly to the report.

The Interim Deputy Chief Executive said that there was a strong link between several of the findings and recommendations of the Review Group and actions that were, in parallel, being progressed by the Executive. The review provided a useful reassurance in these respects.

He cautioned that there were some practical issues in relation to those recommendations that had human resources implications that might limit the flexibility of the Executive in its response.

The Cabinet Member (Corporate and Customer Services and Human Resources) reflected on the necessity of adhering to the single status agreement but acknowledged the issues raised in the report about human resources, to which the Executive would give a considered response.

The Head of ICT who had taken up post in September 2008 recorded his thanks to his predecessor as Head of Service, Geoff Cole. He said that Mr Cole had put some firm foundations in place and acted with integrity in taking over management of the ICT service in what had been very difficult circumstances. The findings of the review were consistent with his own observations, notably those on the need for the replacement data centre, the need to incorporate Primary Care Trust and wider NHS requirements into account in the Community Network upgrade, data security and disaster recovery.

In the course of discussion the following principal points were made:

- Disappointment was expressed that the issue of failure to comply with procurement policies, highlighted in a recommendation in the first ICT review completed in 2006, remained of sufficient concern to generate a further recommendation in the 2008 report.

The Cabinet Member (Corporate and Customer Services and Human Resources) acknowledged that this was a frustration and it was important that this was highlighted to the Executive and the Joint Management Team.

The Director of Resources reported that the need for compliance with all approved policies was shortly to be emphasised in the Council and PCT wide team brief. Internal Audit's work plan included a high level look at such compliance.

- It was asked why the average salary in ICT services was higher than the Council average. The Cabinet Member (Corporate and Customer Services and Human Resources) said that this was a reflection of a market place in which there was strong competition for ICT skills

- The provision of ICT Services to schools was discussed, noting that the review report said that the aspiration of the 2006 review that ICT services should be the preferred provider of services to schools funded and maintained by the local authority, was not now thought to be attainable. Members of the Review Group agreed that the relationship with schools was still patchy but noted that ICT services did have services from which schools could benefit, such as the major upgrade to broadband provision.
- A Member of the Review Group emphasised the improvement in the culture of ICT Services since the 2006 Review and paid tribute to the leadership of Geoff Cole in effecting this transformation.

RESOLVED:

- THAT (a) that the findings of the review of Information, Communication and Technology services be agreed for submission to the Cabinet;**
- (b) the Executive's response to the Review including an action plan be reported to the first available meeting of the Committee after the Executive had approved its response; and**
- (c) a further report on progress in response to the Review then be made after six months with consideration then being given to the need for any further reports to be made.**

46. HEREFORDSHIRE CONNECTS - PROGRESS REPORT

The Committee considered the progress of the Herefordshire Connects Programme.

The Interim Deputy Chief Executive introduced the update on developments in the programme since the major decisions taken by Cabinet on 31 July.

It was noted that Joint Management Team (JMT) recommendations to Cabinet arising from the JMT Connects Programme Board's evaluation and system selection process would be presented in a report to Cabinet on 20 November 2008. This included financial considerations consistent with the Connects reports to Strategic Monitoring Committee and Cabinet in July 2008.

The Connects Programme Manager presented the report, outlining progress in evaluating systems for Environment and Regeneration Services (including a new system for Planning Services); a new system for Performance Management and Risk Management; a tool set that would be used to integrate Council and PCT systems; and an Integrated Support Services system (a 'back office' system to cover Human Resources, Payroll, Finance and Procurement). He noted that Cabinet was to be asked to approve the selection of the preferred systems on 20 November.

The Interim Deputy Chief Executive emphasised that the financial model had been checked by Capita and the processes followed had complied with procurement policy and project management best practice. Internal Audit had been involved at each stage to ensure compliance.

In the ensuing discussion the following principal points were made:

- Questioned about the financial model the Interim Deputy Chief Executive said that great care had been taken to ensure consistency with the reports to the Committee and to Cabinet in July. The overall cost reported in July had been £10.387m. The model now showed a slightly revised cost of £10.196m. From 2012/13 onwards there were projected annual revenue savings of £5.5m per year. He added that it was important to remember that the financial benefit was only one aspect of the Programme, improved service delivery being another.
- In response to a question about the sustainability of the new systems the Connects Programme Manager said that the commercial assessment had examined ongoing support costs. All future expenditure on upgrades was included in the annual maintenance charge. Capita had been asked to look at this aspect and had confirmed that the arrangements were sound for the 5-10 year life of the system.
- The Interim Deputy Chief Executive said that the programme was on course to deliver financial benefits in 2009/10. One of the most important elements was the work with Deloitte to ensure that staff in ICT services developed the skills to ensure that the systems would be sustainable. The work of ICT staff would change and they would be managing a small number of specialist systems. The work to ensure that the skills were in place to deliver the benefits of the systems complemented the work to test the financial model.
- It was cautioned that whilst the programme was necessary other Councils were substantially reducing the projected savings for similar programmes. The Cabinet Member (Corporate and Customer Services and Human Resources) acknowledged that some Councils had reduced their forecasts but the Council had already undertaken its own reassessment in developing the financial model presented to the Committee and to Cabinet in July. The Executive had made clear that savings would be removed from budgets and redeployed.

RESOLVED: That the Committee's observations on the Herefordshire Connects update be noted.

47. ELECTORAL REGISTRATION SERVICES

The Committee considered an update on progress in implementing the electoral registration services action plan.

The Assistant Chief Executive – Legal and Democratic (ACE L&D) presented the report.

He commented that the Electoral Commission had said that they would be willing to send a representative to attend one of the Committee's meetings but had been unable to attend this one.

He reminded the Committee of the background to the 2007 elections and the fact that the late introduction of legislation had created difficulties for a number of authorities.

He had recently commissioned an elections consultant from SOLACE enterprises to carry out a general healthcheck of the elections and electoral registration services. The report identified a number of areas of good practice and had also made some recommendations on areas for improvement. The consultant had seen the report

and action plan presented to the Committee in January 2008. He had considered the report to be open and frank and the action plan appropriate.

The consultant had confirmed that the difficulties the Council faced were the same as a number of local authorities, exacerbated by the number of Parish Councils in Herefordshire.

One of the healthcheck recommendations was on the prosecution of those who refused to register on the electoral register, recommending consideration of a test case. The ACE L&D said that a number of authorities had reservations about prosecutions because of the vulnerability or age of those commonly involved.

He commented briefly on the following areas covered in the report: processes and procedures, training, promotion of elections, working with other services, the website, the annual canvass and the outcome of negotiations with Opt2Vote on the provision of postal votes for the May 2007 elections.

In the course of discussion the following principal points were made:

- In response to a question about member involvement in reviewing the electoral registration service the ACE L&D said that the electoral registration service was to an extent independent of the Council and it was important that that independence was respected and preserved.
- There was a consensus that every effort needed to be made to ensure that the elections in 2011 needed to run much more smoothly than they had in 2007, mindful of the reputational damage to the Council.
- The arrangements for the promotion of elections were discussed noting that in future only in Parishes with an electorate of 200 or fewer would notice be given by individual letter. Notices in public places would be used for larger electorates. Members welcomed this approach.
- Asked about the outcome of the negotiations with Opt2Vote the ACE L&D said that the Council had secured the best deal possible, receiving a 50% discount on the total bill.
- In relation to the cost of Town and Parish Council elections the ACE L&D said that the Council had no statutory obligation to subsidise these elections but did so to the extent of 50%. Discussions were taking place with Herefordshire Association of Local Councils (HALC) on future arrangements for the 2011 elections.
- An example was given of one parish being charged £576 when its precept was only some £1,500. The ACE L&D said that in discussions with HALC he had advised that Parishes should make provision in the precept for one by election per 4 year period between elections. It was important to ensure, however, that the cost was clearly understood.
- In response to a question the ACE L&D confirmed that there were no prosecutions underway for failure to register on the electoral register.
- A Member said that the arrangements for the last unitary council by election in the South Leominster ward had shown marked improvement.
- In reply to a question about the final costs of the 2007 elections the ACE L&D

agreed to supply a written answer.

- Members requested that the electoral commission be invited to send a representative to a meeting early in 2009.
- The ACE L&D offered to supply a report to the Committee reflecting on the Town, Parish and Unitary Council by-elections that took place in 2008.

RESOLVED that a further report on the by elections that have taken place in 2008 be presented early in 2009, with a representative of the electoral commission being invited to attend.

48. USE OF CONSULTANTS

The Committee considered a report on the extent of the Council's use of external consultants in 2007/08.

The Director of Resources presented the report. She explained that the report had been prepared on the basis of the definition reported to the Committee in July 2008. The total expenditure on consultants using this definition was £984,814, representing 0.3% of the 2007/08 gross expenditure of £310m. She considered this to be a good use of resources given the comparative cost of retaining specialist staff as full time employees when those skills were only required for ad hoc projects. The use of consultants could in some circumstances also be beneficial in transferring risk.

In the ensuing discussion the following principal points were made:

- In response to comments that the use of consultants was less than had been expected and questions about particular groups of contractors the Director referred to the definition used in compiling the report. This had specifically excluded, "interim arrangements to fill existing posts or longer term contracted arrangements with the Council's partners." Asked about comparative expenditure in previous years she said that whilst this information could be obtained there would inevitably be variations from year to year and she was therefore uncertain that the exercise would be of great benefit.
- Clarification was sought on the extent to which costs of consultants engaged on capital schemes were included in the capital cost or calculated separately, the feeling being that there was some inconsistency of approach.
- A question was asked about the degree to which advice from consultants was tested rather being simply accepted. It was asked whether the loan of £5 million for 50 years at 4.36% reported to the Committee in October was still considered good value. The Director of Resources said that the loan had been taken out based on advice but in accordance with the Council's borrowing strategy. The investment situation was volatile and investment and borrowing strategies were being updated to ensure the Council responded appropriately to this challenge. Advice from consultants was tested. For example, Deloitte's views on the Herefordshire Connects Programme financial model had been tested by Capita.
- That there were instances where employment of consultants clearly was necessary and added value. It was suggested that it was, however, important to guard against the costly use of consultants as an insurance policy.
- The use of agency staff was discussed. The Director commented that one of the

identified budgetary savings was to manage the use of agency staff. The appointment of Pertemps to manage the appointment of all agency staff for the Council had itself generated efficiency savings.

The Cabinet Member (Corporate and Customer Services and Human Resources) commented that over the next three years she would expect the number of agency staff to increase given the expected staff reductions as a consequence of the Herefordshire Connects Programme.

The Committee noted the position.

49. WORK PROGRAMME

The Committee considered its work programme.

The following additional items were noted as a consequence of discussions earlier in the meeting:

- The Executive's response to the scrutiny review of ICT Services.
- A further report on electoral registration services (to include attendance by a representative of the electoral commission).

It was also noted that the Cabinet Member (Resources) had asked if the Committee would consider meeting to consider a report on the smallholdings policy before Christmas. The morning of Wednesday, 10 December was the provisional date.

The Chairman commented that he had raised the issue of whether external advice and witnesses needed to be available to the Committee when the smallholdings policy was considered.

RESOLVED: That the current work programme serve as a basis for further development, subject to any comment the Committee wishes to make.

VOTE OF THANKS

The Chairman reminded Members that this would be the last scheduled meeting of the Committee to be attended by Sonia Rees, Director of Resources. He thanked her for her support to the Committee and the constructive way in which she had answered the Committee's questions.

The Committee also noted that it would be the last meeting attended by Andrew Williams, Interim Deputy Chief Executive and thanked him also for his work.

The Committee gave a vote of thanks to both the Director of Resources and the Interim Deputy Chief Executive.

The meeting adjourned between 11.05 and 11.15 and ended at 12.40 p.m.

CHAIRMAN

SMALLHOLDINGS ESTATE STRATEGY REVIEW**Report By: Director of Resources****Wards Affected**

County-wide.

Purpose

1. The main purpose of this report is to demonstrate the rationale for retaining the smallholdings estate given the absence of a corporate priority that requires disposal to be considered.
2. Based on the assumption that the estate is to be retained, the report then goes on to propose a new smallholdings estate strategy covering strategic aims, objectives and outcomes and the key principles for developing and managing the smallholdings estate.
3. The report does not set out a detailed plan for developing and managing the smallholdings estate. It will be for officers to develop and implement a plan that conforms to the approved smallholdings estate strategy once Cabinet has agreed that strategy. Officers will be accountable and responsible for taking decisions and reporting progress, in line with the council's Constitution.
4. The Strategic Monitoring Committee's views are being sought on the following specific points:
 - a. The extent to which the evidence provided in this report supports the rationale for retaining the smallholdings estate in the absence of a corporate priority that requires disposal to be considered.
 - b. The proposed smallholdings estate strategy including strategic aims, objectives and outcomes and the key principles for developing and managing the estate.
5. The Strategic Monitoring Committee has been asked to consider these issues in advance of Cabinet making a decision on them to provide an opportunity for scrutiny during the policy review process. Cabinet will receive this report next month, alongside any comments the Strategic Monitoring Committee makes on it. The National Farmers Union (NFU) and the Tenant Farmers Association (TFA) will be invited to comment on the content of this report. Their feedback will also be reported to Cabinet.

Financial Implications

6. Adoption of the strategy outlined in this report for developing and managing the smallholdings estate provides a platform for improving the net contribution made by the service to the council's revenue account, the rate of return on capital employed, the capital value of the estate over time and the contribution made to corporate priorities. Taken together, these improvements will lead to better value for money.
7. Based on the existing smallholdings estate strategy, financial planning assumptions allow for £10m of capital receipts being generated from smallholdings estate disposals over the 10 year period to 2015. This is estimated at £1m a year for capital planning purposes in the absence of a more detailed forecast of future capital receipts. If the proposed strategy for rationalising the smallholdings estate outlined in this report is approved by Cabinet, capital receipts will be a by-product of the development plan, rather than the strategic driver for disposals as is currently the case. The detailed planning work officers will carry out once the revised smallholdings estate strategy has been agreed will identify the opportunities for capital receipt realisation. This will form a more reliable basis for estimating available resources for capital planning purposes.

Background

Scope

8. The council's smallholdings estate does not include the farms and land owned by the Buchanan Trust. The policy for the use of these properties is the responsibility of the Trustees, who are advised by external legal advisors. The council's Asset Management & Property Services team manages the day to day running of the Buchanan Trust estate on behalf of the Trustees. The Trust's land holdings are not within the scope of this report.

Overview

9. According to the latest available annual report to Parliament on smallholdings in England, 50 local authorities owned and managed 96,200 hectares (237,700 acres) of agricultural land as statutory smallholding authority as at 31 March 2006. This land was let to 2,836 tenants under tenancies governed by the Agricultural Holdings Act 1986 and the Agricultural Tenancies Act 1995.
10. Herefordshire's statutory smallholdings estate amounts to some 2,100 hectares (5,200 acres). The following table analyses current tenancies by tenure as at 30 November 2008:

Type of Tenure	Number
Life tenancies	20
Retirement tenancies	18
Farm business (fixed term) tenancies	35
Secured cottage tenancies	2
Buildings only fixed term business tenancies	2
Total	77

11. Rental income from the council's smallholdings estate has averaged £420k over the last three financial years. The trend has been for rental income to remain static. This is a similar trend to other smallholdings estates and reflects market conditions in recent years. Over the same period, the council spent an average of £240k per annum on the day to day management, repair and maintenance of the estate.
12. Over the same time period, average annual capital spending has been £200k. There have been unusually high levels of capital investment in the smallholdings estate over the last three financial years, due to a major works programme (upgrading electrical wiring) and investment in properties prior to disposal to maximise the capital receipt.
13. The current smallholdings estate policy identifies a target of achieving £10m of capital receipts within 10 years from 1 April 2005; £3.2m of capital receipts have been generated to date.
14. Backlog maintenance on the smallholdings estate, identified through a 5-year rolling programme of condition surveys, totalled £900k as at 31 March 2008.
15. The smallholdings estate could realise somewhere between £20m and £40m on disposal, depending on the approach adopted. Although there is currently global uncertainty in financial markets, agricultural land has historically proved to be a reliable capital investment, with values increasing over the long run. The current capital valuation for asset accounting purposes is £10.6m as at 31 March 2008. The capital value of the estate is currently calculated by capitalising rental values or on the basis of development value as appropriate.

Context for the Review

16. A report on the management of the council's smallholdings estate was presented to the Strategic Monitoring Committee on 19 November 2007. Following discussion of that report, the Committee resolved that *'a full review of the management of the smallholdings estate be carried out and properly documented in one report, with particular reference to the value for money obtained for the whole of Herefordshire, and detailing the criteria for disposal and including maps showing the location of holdings'*.
17. The Committee was provided with an update on the council's policy on the management of the smallholdings estate on 10 March 2008. Information on the location of the council's smallholdings was provided and the Committee noted that a number of its concerns had been addressed by the update. However, following considerable discussion, the Committee resolved that *'the smallholdings estates policy no longer meets its expressed aims'* and that *'there should therefore be an overarching review undertaken by the executive'*. A copy of the reports and relevant extracts from the Minutes is attached for ease of reference at Appendix 1.

Review Methodology

18. An assessment of the legislative framework was carried out to identify the council's statutory obligations with regard to providing a smallholdings service (paragraphs 21 to 27. refer).
19. An options appraisal was carried out in order to arrive at an objective assessment from both a financial and non-financial perspective of the available options (paragraphs 28 to 49 refer).
20. Based on the assumption that Cabinet might ultimately decide to retain the smallholdings estate, the strategic aims, objectives and outcomes for the smallholdings estate were developed, along with criteria for developing and managing the estate.

Legislative Framework

21. Local authority smallholdings estates have their origins in central government policy of the early 20th century when there was a major concern about the decline in agricultural employment and a desire to provide farming opportunities for ex-servicemen returning from the two world wars.
22. The 1970 Agriculture Act enabled statutory smallholding authorities to provide much wider opportunities for individuals to farm in their own right. The rules for the administration of statutory smallholdings were set out in Part III of the 1970 Act, and gave statutory smallholding authorities the power to provide farms to anyone who wanted to become a farmer.

23. The Agriculture (Miscellaneous Provisions) Act 1976 introduced the right of up to two successions of tenancy on death for close relatives for new smallholdings tenancies. This meant that a smallholding could remain within the same family for up to three generations.
24. The House of Lords, in debating what would become the Agricultural Holdings Act 1984, emphasised the role smallholdings estates had in providing 'starter units' which would encourage tenants to move onto larger holdings elsewhere. The 1984 Act was designed to help farmers progress in their chosen career. However, achieving this objective was patently difficult for smallholding authorities, given existing tenancy arrangements severely limited the opportunities for smallholding authorities to review their estates and increase the number of 'starter unit' opportunities for new farmers. The 1984 Act helped smallholdings authorities tackle this barrier by removing a new tenant's automatic right to a life tenancy with succession. The 1984 Act also introduced the right of succession on reaching retirement age rather than waiting for death to help 'farmers in waiting' progress their career.
25. The Agricultural Holdings Act 1986 provided smallholding authorities with further opportunities to review their estates in support of the national policy objective of providing a 'starter unit' service. In certain circumstances, including attainment of retirement age, smallholding authorities were now able to issue incontestable notices to quit.
26. Smallholdings authorities were given yet more flexibility in the Agricultural Tenancies Act 1995. A new form of tenancy, known as the farm business tenancy (FBT), was introduced which applies to the vast majority of tenancies granted since 1 September 1995. An FBT can be granted for a fixed period of time without creating security of tenure.
27. The legislative framework provides county and unitary authorities with the power to provide a smallholdings service but not a duty. When a smallholdings service is provided, it must be open to all and it should encourage career progression through the provision of starter units. There is nothing in law that prevents a smallholdings authority from disposing of smallholding properties.

Appraisal of the Key Options

Introduction

28. Having identified the discretionary nature of the smallholdings service, the next stage of the review set out to establish whether the council should continue to provide the service or not because councils have a statutory duty to secure and demonstrate best value in the use of their resources. A key assumption

underpinning this part of the review was that there was no over-riding corporate objective to realise the capital value of the estate.

29. Three key options were identified as follows:

Option 1	Retain the smallholdings estate in its current structure as part of the council's managed property portfolio.
Option 2	Retain the smallholdings estate as part of the council's managed property portfolio, developing it in line with strategic aims, objectives and outcomes.
Option 3	Disposal of the smallholdings estate.

30. Disposal of the smallholdings estate, Option 3 above, could be managed in three ways as identified in the following table:

Method of disposal	Comments
Option 3a - disposal as a single estate with sitting tenants in place	Disposal with sitting tenants will reduce the price the potential purchaser is willing to pay. This problem is compounded by the fact that smallholding authority tenants with a retirement tenancy are entitled to a life tenancy when they transfer to the private sector. There may be a limited market for the sale of such a large land holding as one lot, and possibly no interest at all. It is estimated that a discount on full market value in the region of 50% would result from this method of disposal.
Option 3b - disposal of each holding separately with sitting tenants in place	This option would give sitting tenants the opportunity to buy their own holding, subject to a competitive sale process. However, disposal with sitting tenants reduces the price the potential purchaser is willing to pay. This problem is compounded by the fact that smallholding authority tenants with a retirement tenancy are entitled to a life tenancy when they transfer to the private sector. There is likely to be a better market for separate disposals although it is possible that some smallholdings would not attract any interest. It is estimated that a discount on full market value in the region of 25% would result from this method of disposal.
Option 3c - disposal as and when tenancies	This option would give sitting tenants the opportunity to buy their own holding, subject to a competitive sale process. The estate would become fragmented over time. It is anticipated

come to an end	that this option would achieve full capital value over time.
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31. Having identified the potential options for the future of the smallholdings estate, each option was evaluated using a two-part option appraisal process, comprising a financial and a non-financial assessment.

Financial Assessment

32. A spreadsheet-based financial model was developed to estimate the net present value of each option over a 30-year period. This technique enables options with different cash flow profiles to be compared at today's prices by removing the effect of inflation in future years. A 30-year time period was chosen to allow for the fact that some of the existing life tenancies could run until 2038.
33. The key variables and assumptions for each option used in the financial model are as follows:
- a. The cash flow for rental income is based on the budget for 2008/09 (£400k). Annual rental income reduces over time in options 2 (retain and rationalise) and 3c (disposal as tenancies end).
 - b. The cash flow for revenue expenditure is based on the budget for 2008/09 (£240k). Annual revenue expenditure reduces over time in options 2 (retain and rationalise) and 3c (disposal as tenancies end).
 - c. The cash flow for capital expenditure is based on average spending in a typical year (£20k). Annual capital expenditure reduces over time in options 2 (retain and rationalise) and 3c (disposal as tenancies end).
 - d. For option 2 (retain and rationalise), capital receipt cash flow of £10m over the first 20 years has been assumed.
 - e. There is backlog maintenance expenditure of £580k in year 2 and £380k in year 5 in options 1 (retain in current form), 2 (retain and rationalise) and 3c (disposal as tenancies end).
 - f. For disposal purposes, the estate has been valued as follows:
 - i. £4,000 per acre for option 3a (disposal as a single estate).
 - ii. £5,750 per acre for option 3b (disposal as separate holdings).
 - iii. £7,500 per acre for option 3c (disposal as tenancies end).

- g. For options 1 (retain in current structure) and 2 (retain and rationalise), the residual value of the estate at the end of the 30 year period has been estimated at £7,500 per acre.
- h. The model assumes an inflation rate of 2.5% and a discount rate of 3.5% in line with HM Treasury recommendations.
34. The net present values for the options range from £20.8m to £40.7m. The results are summarised in the following table:

Discount Factor: 3.5%	Net Present Value	Rank
Option 1 - retain the smallholdings estate in its current structure as part of the council's managed property portfolio.	£32.1m	3
Option 2 - retain the smallholdings estate as part of the council's managed property portfolio, developing it in line with strategic aims, objectives and outcomes.	£40.7m	1
Option 3a - disposal as a single estate with sitting tenants in place.	£20.8m	5
Option 3b - disposal of each holding separately with sitting tenants in place.	£29.9m	3
Option 3c - disposal as and when tenancies come to an end.	£36.2m	2

35. The options with the two highest rankings by a clear margin over the others are options 2 (retain and rationalise) and 3c (disposal as tenancies end). Retaining and rationalising the smallholdings estate will generate a net present value that is £4.5m higher than that generated by disposing of the estate as tenancies end.
36. The results produced by the financial model are illustrative, due to the assumptions that have to be made on the value and timing of cash flows for each variable. The generally accepted way of testing how sensitive the results are to changes in those assumptions is to change the discount factor. The sensitivity of the model was tested by re-running the calculation for each option using 4.5% as the discount factor. The effect of this change is shown in the table below:

Discount Factor: 4.5%	Net Present Value	Rank
Option 1 - retain the smallholdings estate in its current structure as part of the council's managed property portfolio.	£24.6m	4
Option 2 - retain the smallholdings estate as part of the council's managed property portfolio, developing it in line with strategic aims, objectives and outcomes.	£32.5m	2
Option 3a - disposal as a single estate with sitting tenants in place.	£20.8m	5
Option 3b - disposal of each holding separately with sitting tenants in place.	£29.9m	3
Option 3c - disposal as and when tenancies come to an end.	£33.4m	1

37. The options with the two highest rankings, by a clear margin over the others, remain options 2 (retain and rationalise) and 3c (disposal as tenancies end). However, the order of their ranking has reversed. Disposing of the estate as tenancies end will generate a net present value that is £900k higher than that generated by retaining and rationalising the estate.
38. On the basis of the financial assessment alone, retention and rationalisation of the estate is the most favourable option in the absence of a corporate objective that requires wholesale disposal.

Non Financial Assessment

39. This part of the option appraisal process examines the national government policy context for farming and looks at the contribution the smallholdings estate makes towards local policy objectives.
40. The government responded to the foot and mouth crisis in 2001 by setting up an independent Policy Commission on the Future of Farming and Food, to reassess the place of farming and the food industry in the rural society and economy. The Policy Commission was led by Sir Don Curry, CBE, FRAGS, and his report set out a new vision and some proposals on how it might be pursued. The vision was of a '*sustainable, competitive and diverse farming and food sector, playing a dynamic role in the rural economy and delivering effectively and efficiently on environmental goals*'.
41. The Department for Environment, Food and Rural Affairs (DEFRA) published *The Strategy for Sustainable Farming and Food: Facing the Future*, in response to the

Curry Commission report in December 2002. The Strategy set out the following key principles for sustainable farming and food:

- a. Produce safe, healthy products in response to market demands, and ensure that all consumers have access to nutritious food, and to accurate information about food products.
 - b. Support the viability and diversity of rural and urban economies and communities.
 - c. Enable viable livelihoods to be made from sustainable land management, both through the market and through payments for public benefits.
 - d. Respect and operate within the biological limits of natural resources (especially soil, water and biodiversity).
 - e. Achieve consistently high standards of environmental performance by reducing energy consumption, by minimising resource inputs and by use of renewable energy wherever possible.
 - f. Ensure a safe and hygienic working environment and high social welfare and training for all employees involved in the food chain.
 - g. Achieve consistently high standards of animal health and welfare.
 - h. Sustain the resource available for growing food and supplying other public benefits over time, except where alternative land uses are essential to meet other needs of society.
42. DEFRA published *Sustainable Farming and Food Strategy: Forward Look* in July 2006. The Forward Look built on the 2002 strategy document and set out the government's updated vision for sustainable farming and food. The updated vision was '*to develop a profitable and competitive domestic farming industry which is a positive net contributor to the environment, while reducing the environmental footprint – at home and abroad – of our food consumption*'. The Forward Look provided the policy and regulatory framework required to achieve a sustainable future structured around five key priority themes:
- a. **Succeeding in the market** – helping farm businesses and the food chain to reduce dependency on subsidies.
 - b. **Improving the environmental performance of farming** - continuing to build environmental responsibility into mainstream farming practices (e.g. landscape management, wildlife and biodiversity, soil, air and water quality, environmental protection, resource management and pollution control).

- c. **Sustainable consumption and production** – meeting consumers' demands for more environmentally sustainable food and reducing the environmental footprint of the farming and food sector.
 - d. **Climate change and agriculture** – managing the land to reduce the likelihood and impact of climate change.
 - e. **Animal health and welfare** – to ensure strong economic, environmental and social performance – the three key pillars of sustainability.
43. The Forward Look document noted that successful delivery of the Sustainable Farming and Food Strategy hinged on effective partnership working and a shared understanding and ownership of the Strategy's objectives. A Delivery Group, chaired by Sir Don Curry, was established to work with government departments and delivery partners to tackle barriers to progress and provide an early steer during policy development. The Delivery Group membership includes a representative from the National Farmers Union.
44. The Delivery Group has recently reviewed the future of local authorities' land holdings, publishing a document entitled '*The Importance of the County Farms Service to the Rural Economy*' in November 2008 (Appendix 2 refers). The document provides up to date guidance for local authorities recognising the strategic importance of their land holdings and the economic, environmental and social benefits they can provide and its key messages are:
- a. Farms owned and managed by local authorities are an important, strategic, national asset that should be retained.
 - b. These farms assist local authorities in meeting wider regional economic, countryside and environmental objectives and provide an essential route into farming for new entrants.
45. Regionally, the Strategy for Sustainable Farming and Food is co-ordinated by the Government Office for the West Midlands and Advantage West Midlands. These two bodies are charged with the responsibility of developing the national policy framework into regional implementation plans.
46. The council's corporate plan 2008 – 2011 makes no specific reference to the contribution that the smallholdings estate makes to the council's own priorities, including those for sustainability. These links could readily be created through existing corporate, service and financial planning processes. To illustrate the point, the smallholdings estate contributes to: the sustainability of the economy and rural communities in Herefordshire; the protection of the countryside and environment; the protection of habitats and flora and fauna; the reduction of the carbon footprint;

education for all about the countryside and farming; and improving access to the countryside.

Conclusions

47. The financial assessment supports the view that the smallholdings estate should be retained and developed in the absence of a corporate policy driver for disposal.
48. The non financial analysis summarises the national policy agenda for farming and noted that the council's corporate plan does not refer to the smallholdings service although it clearly makes a contribution to a number of corporate plan themes.
49. The options appraisal process therefore supports the view that the smallholdings estate should be retained in the absence of a requirement to realise significant capital receipts and that it should be developed in support of national and local priorities.

Smallholdings Estate Strategy

50. Paragraphs 51 to 80 set out a revised set of strategic aims, objectives and outcomes for the smallholdings estate and the key principles for developing and managing the estate to deliver those aims, objectives and outcomes.

Strategic Aim

51. To develop and manage the smallholdings estate, so that it provides both an entry point into agriculture for first time tenants and a springboard for existing tenants to progress to a larger unit, initially with the council and subsequently with another landlord or as an owner occupier.

Strategic Objectives

52. To maximise the number of opportunities for new entrants into arable, livestock or mixed farming and for career progression for council tenants by rationalising and enhancing the estate to provide, over time, three starter units for each larger unit.
53. To work with private farming landlords in Herefordshire to develop opportunities for council tenants moving into the private sector.
54. To take a long term view of maximising the annual contribution to the council's revenue account, the annual rate of return, the capital receipts derived from a planned development of the estate and the capital value of the estate in support of strategic aims, objectives and outcomes.

55. To dispose of the land holdings identified as surplus to requirement as a result of implementing the development plan for the estate, subject to no other corporate priority for alternative use of that land holding being identified (e.g. affordable housing) once the asset has been declared surplus to requirement for smallholding purposes.
56. To consider land purchases where that would support rationalisation and enhancement of the estate, in line with the strategic aims, objectives and outcomes of the smallholdings estate. Such purchases would be made in accordance with the council's constitution and financial policies.
57. To develop the links to regional strategies for promoting sustainable rural economies.
58. To continue to develop the links between the council's smallholdings estate strategy and other relevant corporate priorities such as those for renewable energy, local food, public access, education, employment, diversity, health and wellbeing and the rural economy.

Strategic Outcomes

59. The following strategic outcomes have been identified:

Economic	<ul style="list-style-type: none"> • Efficient and successful production of food and non food crops to help enhance farmers' incomes. • Greater number of employment opportunities in farming. • Greater contribution to efficiency in the food chain. • Reduced burden on taxpayers and the rest of the economy.
Environmental	<ul style="list-style-type: none"> • Reduced impact on the environment. • Reduced carbon footprint. • Better use of natural resources. • Improved landscape and biodiversity.
Social	<ul style="list-style-type: none"> • Better public health through improved nutrition and work place health and safety. • Better animal health and welfare. • More cohesive and productive rural economies.

60. These outcomes need to be linked to corporate plan priorities and commitments.

Developing and Managing the Smallholdings Estate

61. The strategic framework for the smallholdings estate will be implemented through a development plan for restructuring the estate and managing ongoing tenancies. The key issues have been identified in paragraphs 62 to 80 below. A copy of the current model tenancy agreement is attached at Appendix 3 for information.
62. The council's statutory powers are limited to providing smallholdings that require one or, at the most, two people to run and manage them effectively. To remain within the law, the development plan must produce starter smallholding units ranging in size from 20 to 40 hectares (50 to 100 acres) and larger smallholding units ranging from 40 hectares (100 acres) in size.
63. Seven out of the council's 77 current smallholdings tenancies are dairy farms, with the remainder being for mixed farming businesses. The current ratio of one arable farm to ten mixed farms meets assessed needs. The development plan will aim to deliver this ratio of arable to mixed farming opportunities.
64. The development plan will reduce the overall number of smallholdings over time as it restructures the estate to increase opportunities for new entrants and support career progression for existing smallholders both within the estate and in other sectors. The development plan will seek to maximise capital receipts but not at the expense of achieving the strategic aims objectives and outcomes of the smallholdings estate strategy. For this reason, a financial target for generating capital receipts will not be set.
65. The development plan will increase tenancy turnover over time, so that more people are helped into a career in farming and to progress within it.
66. The development plan will include performance targets designed to track progress in achieving the strategic outcomes for the smallholdings estates. Performance will be managed in line with the council's performance management arrangements.
67. When tenancies come to an end, either through expiry or mutual agreement, the first priority will be to consider that property in the context of the development plan, so that every opportunity to develop the estate is taken as soon as it arises.
68. There will be a presumption against re-letting to an outgoing tenant because the strategic aim is to support them in their career progression and help them prepare for their next move. However, holding over arrangements will be considered where that clearly supports career progression within the council's smallholdings estate or into the private sector.

69. Tenancy documentation should include obligations on tenants to comply with good practice in order to support the council's smallholdings estate strategy and wider corporate priorities.
70. All tenancies will be let on the basis of open competition, with no preference given at interview stage to individuals who might have had a right of succession under now defunct statutory provisions.
71. All tenancies will be let for a fixed term of up to six years, less by mutual agreement. The Council will consider requests from tenants to sublet providing such proposals do not hinder the development of the smallholdings estate development plan and that the Council secures an appropriate share of any uplift in rental income.
72. Candidates for new tenancies will need to demonstrate their commitment to and plans for career progression in line with the council's policy of providing one tenancy opportunity in a starter unit and one subsequent tenancy in a larger unit before moving into the private sector.
73. Tenants with life or retirement tenancies will be offered a without prejudice and without obligation opportunity to discuss at a time convenient to them options for early termination of their tenancy where this would assist delivery of the development plan.
74. The rents of the holdings will be regularly reviewed and will be based on comparative rents achieved throughout the country for similar smallholding properties and no other type of property.
75. Officers will take decisions on disposals, in line with their delegated responsibilities as set out in the council's constitution and in line with the provisions of the council's smallholdings estate strategy.
76. The Cabinet Member and local ward members will be informed of all disposals.
77. The council will comply with all relevant legislation governing the terms and conditions of smallholdings tenancies. The statutory provisions for smallholding tenancies give smallholding tenants certain rights that are not available in law to other types of council tenant (e.g. length of the period of notice).
78. The council will comply with all relevant legislation governing the council's maintenance responsibilities for its smallholdings properties. This will include a rolling programme of condition surveys completed over a five-year period, as a basis for developing a planned maintenance programme. Approval for all capital spending proposals for the smallholdings estate must be obtained via the council's capital planning procedures. The council's capital planning procedures prioritise

allocation of the available capital resources proposals where non-compliance with statutory requirements is, or would become an issue (e.g. retention and disposal of nitrates for smallholdings properties).

79. The council will encourage and support career progression for its tenant farmers. Training for tenants may be provided by the council where specific personal development needs have been identified that if met will help the tenant develop their agricultural business and/or support their plan for career progression in agriculture.
80. The council's smallholdings team will provide additional advice and support to those tenants whose tenancies are due to expire in less than 2 years from the date of this smallholdings estate strategy if agreed by Cabinet, to help them plan and prepare for progression through the council's smallholdings estate or into the private sector.

Consultation

81. External advice and opinions were sought throughout the review process from other service providers and tenant representatives. The Head of Asset Management & Property Services and his smallholdings team met with colleagues from Gloucestershire and Worcestershire to identify the strategic issues affecting local authority smallholdings estates and areas of good practice for adoption in Herefordshire. The Cabinet Member (Resources) facilitated a meeting with representatives of the Tenant Farmers Association and the National Farmers Union to identify and discuss the issues affecting local authority tenant farmers.

Risk Management

82. Adoption of the revised smallholdings estate strategy outlined in this report will mitigate the risk that this asset is under-utilised in terms of supporting improved outcomes, customer experience, services and value for money.

Conclusions

83. The council's smallholding properties are a valuable asset. This report sets out the evidence supporting the view that, given the absence of a strategic objective requiring disposal, there is a clear rationale for retaining and developing the smallholdings estate, in order to obtain improved outcomes, services, customer experience and better value for money (paragraphs 28 to 49 refer).
84. The report then goes on to propose a new smallholdings estate strategy to increase the opportunities for entry to and progression within the farming industry and to provide more support for a wide range of corporate priorities sets (paragraphs 51 to 80 refer).

Next Steps

85. The proposed smallholdings estate strategy provides the policy framework within which officers will work. The Strategic Asset Management team will be responsible for developing the smallholdings estate development plan and monitoring its implementation, for reviewing and updating the detailed procedure manuals and for reviewing and updating standard tenancy documentation. The Property Operations team manages the smallholdings estate on a day-to-day basis and will comply with the smallholdings estate strategy, development plan and approved operational procedures.
86. Cabinet resolved to carry out a review of the council's future requirements for Asset Management & Property Services in September, when it determined the next steps for the re-negotiation of the Amey contract. Cabinet requires a report on that review by the end of March 2009. The service delivery arrangements for both the strategic and operational aspects of the smallholdings services are being considered as part of the executive's wider review of the Asset Management & Property Services function. Future options for delivering the smallholdings service range from retaining the in-house service through collaboration with other smallholding authorities to outsourcing.

RECOMMENDATIONS

- THAT: (a) the Committee considers the extent to which the evidence provided in this report supports the rationale for retaining the smallholdings estate in the absence of a corporate priority that requires disposal to be considered; and**
- (b) the Committee considers the comments it wishes to make to Cabinet on the proposed smallholdings estate strategy, including the key principles for developing and managing the estate.**

BACKGROUND PAPERS

- Department for Environment, Food and Rural Affairs – Sustainable Farming and Food Strategy: Facing the Future (December 2002)
- Department for Environment, Food and Rural Affairs – Sustainable Farming and Food Strategy: Forward Look (July 2006)

**EXTRACT FROM MINUTES OF THE STRATEGIC MONITORING COMMITTEE –
10 MARCH 2008**

80. SMALLHOLDINGS ESTATE POLICY AND WORKING PRACTICES

(Councillor PJ Edwards declared a personal interest.)

The Committee was provided with an update on the Council's policy on the management of the smallholdings estate and invited to comment.

On 7 November the Committee had agreed that a full review of the management of the smallholdings estate be carried out and properly documented in one report, with particular reference to value for money for the whole of Herefordshire, and detailing the criteria for disposal and including maps showing the location of holdings. The policy had subsequently been reviewed and updated and was being presented to the Committee for consideration.

The Head of Asset Management and Property Services (HAMPS) presented the report. He drew attention to the amended target for capital receipts for 2008/09 and beyond to £1million per annum, net of approved expenditure on capital repairs. He added that the current policy managed the estate on the basis of structured disposals of buildings and parcels of land and re-allocation of land to retained holdings. The policy of structured disposal provided the Council with value for money by optimising the capital and revenue returns from the estate.

In the ensuing discussion the following principal points were made:

- It was noted that the revised and updated documentation addressed a number of points the Committee had raised in November.
- It was asked whether the net income of £140,000 was acceptable having regard to the estimated capital valuation of the estate. Appendix 4 to the report indicated options for disposal based on vacant possession ranging from £18million - £43.2 million under the present policy of structured disposal of buildings and parcels of land and reallocation of land to retained holdings.

The HAMPS referred to the valuation of the estate, set out at section 8.2 of appendix 2 to the report, of £4.253 million. This valuation was based on the nationally accepted instructions and guidance for the valuation of rented farms. Section 9.2 noted a return in 2006/07 on capital invested of 10.3% gross (3.8% net of expenditure) with an estimated outturn for 2007/08 of 9.5% gross (4.3% net of expenditure). The figures in appendix 4 were estimated sums that could be achieved by disposal dependent on which option for disposal was pursued.

- It was asked whether the rental charges were realistic. The financial information before the Committee suggested a weekly rental for a 50 acre smallholding of £81.73 a week. This compared with a 3 bedroom house in Ledbury advertised at £81.70 a week.
- It was suggested that there were instances of tenants sub-letting to contract growers. There was concern that the risk that this would occur was increased given that there were a number of older tenants on lifelong tenancies who would retire as farmers. This was in conflict with the aim of offering a ladder of opportunity. This was unsatisfactory and needed to be investigated.

The HAMPS reported that modern tenancies did not permit sub-letting. However, some of the older tenancy agreements did not contain a clause prohibiting sub-letting.

- That the smallholdings estate was a special case in economic terms with a special history. Agriculture was vital to the Country's future and to the cohesion of rural communities. Smaller farms were acknowledged to be more efficient units of production and, given predictions of global food shortages, it was important that the opportunity to enter farming continued to be provided. There were strong feelings on this point within the local community of which the Council needed to be mindful.
- It was suggested that six year farm business tenancies were not long enough.
- In response to a question the HAMPS said that if a tenant faced the risk of homelessness strategic housing services would be informed but there was no specific assistance available.
- It was asked whether the statement that the ten year target of £10 million was achievable within six years as indicated in the report was realistic. It was asked whether there was a risk that this approach would also bear disproportionately hard on those with short term tenancies.

The HAMPS said that the policy was to dispose of properties with high management and maintenance costs. Whilst it was hoped to achieve the £10 million target in 6 years it could not be guaranteed. The policy target was still £10 million over a ten year period.

- The role of the Cabinet Member (Resources) in decision making on smallholdings issues was noted and aspects where it was suggested other Members of the Council should also have a role were raised as an issue for further discussion. Areas Members identified for consideration included re-letting, provision for appeals against the intention to end tenancies but prior to issuing a notice to quit, progression within the estate and the amalgamation of land and holdings. The need for Ward Members to be kept informed was also emphasised.
- Asked what he envisaged the eventual size of the smallholdings estate would be the HAMPS said that as it was not one of the Council's main objectives to provide smallholdings the implication was that over time was that the estate would reduce to nothing. However, that was a decision for Members to make. His responsibility was to implement the objectives in the currently approved policy.
- A question was asked about the soundness of the investment of receipts generated from disposals. The HAMPS said that the decision on the allocation of receipts was part of the Capital Programme determined by Members. The policy was to achieve net receipts of £1 million after approved expenditure on the estate to improve the overall value and return.
- There was support for rationalisation of the estate particularly where this was directed at high maintenance properties.

- There was some perception that the estate was being treated differently to how the Council might manage any other asset.
- It was suggested that refurbishments should be justified rather than being carried out as a matter of course.
- It was suggested that point 4.4 of the policy as set out at appendix 2 referring to training for tenants should make explicit that this was training to equip smallholders to fulfil their role as smallholders and be relevant to delivering the smallholdings policy, not more general training.
- The Cabinet Member (Resources) referred to paragraphs 1.1 and 1.2 as set out at appendix 2 to the report, giving an assurance that there had been no change to the Council's policy. Any change would have to be determined by Members. The action being taken was intended to rationalise the estate and to provide a ladder of opportunity.
- Clarification was requested about the management of the smallholdings forming part of the Buchanan Trust estate which were not referred to in the report and were subject to separate management under a Trust Deed, and the role of the Council as trustee.
- It was proposed that given the concerns expressed that there should be an overarching review of the smallholdings policy.

The Cabinet Member (Resources) reiterated that the policy had not changed but supported a report to Cabinet reviewing the policy and addressing the concerns which had been expressed.

RESOLVED: that the smallholdings estates policy no longer meets its expressed aims, does not reflect current reality and is incomplete and inconsistent, there should therefore be an overarching review undertaken by the executive addressing, for example, issues of concern identified during the Committee's debate.

**EXTRACT FROM MINUTES OF THE STRATEGIC MONITORING COMMITTEE –
19 NOVEMBER 2007**

**47. THE COUNCIL'S POLICY FOR MANAGEMENT OF THE SMALLHOLDINGS
ESTATE**

(Councillor PJ Edwards declared a personal interest in this item.)

The Committee considered a report on the Council's policy for the management of the smallholdings estate.

The Head of Asset Management and Property Services presented the report.

In the course of discussion the following principal points were made:

- It was requested that a map be made available to Members of the Committee showing the Council's holdings. In reply it was noted that a series of maps would be needed but work currently underway on the Council's holdings as a whole should enable this information to be produced in due course.
- The policy of disposing of land when prices were rising was questioned. It was replied that the policy as set out in the Asset Management Plan was to generate £10 million in capital receipts over a ten year period. This should be achieved. The policy was to rationalise the smallholdings estate by disposing of unsuitable or high maintenance property.
- It was noted that some of the documentation quoted as background papers and described as policy did not indicate when it had been produced but appeared to be out of date. It was stated that the Property Strategy as reported to Cabinet on 19 May 2005 was the Council's policy and the documents being referred to were supporting working documents.
- It was proposed that a full review of the management of the smallholdings estate be carried out and properly documented in one report, with particular reference to value for money for the whole of Herefordshire.
- It was suggested that provided that the Committee was assured that the criteria for rationalisation of the estate were in place the Committee should focus on other issues.
- It was suggested that in some instances the rental for holdings compared favourably with that for a property on the Belmont housing estate. It was asked whether sub-letting was also taking place.

In reply the Estates Manager said that the previous Cabinet Member had instructed that there should be no sub-letting and under the Agricultural Holdings Act (AHA) this was not permitted. However, there were ways in which this could be subverted. He had discussed this with fellow land agents but there appeared to be no counter. In contrast, under the new Farm Business Tenancies (FBT) control could be exercised and permission required to sub-let. The Council could exercise its discretion under an FBT to permit sub-letting but if it did do so it could charge extra rent. Forty of the Sixty-one holdings were currently held under the AHA.

In response to detailed questions the following points were made:

- That increased prices for grain would be reflected in rent reviews.
- That one notice to quit had been issued and although the arrears had now been paid that tenant would leave the smallholding in February 2009.
- Expenditure on a road at a smallholding at Burghill was clarified.
- The reasons why a particular holding at Burghill had not been let were clarified explaining the various tenancy agreement options and their implications.

RESOLVED: That a full review of the management of the smallholdings estate be carried out and properly documented in one report, with particular reference to value for money for the whole of Herefordshire, and detailing the criteria for disposal and including maps showing the location of holdings.

SMALLHOLDINGS ESTATE POLICY AND WORKING PRACTICES

Report By: Director of Resources

Wards Affected

County-wide

Purpose

1. The purpose of this report is to provide an update on the Council's policy on management of the smallholdings estate and invite any comments.

Financial Implications

2. The target of £10 million capital receipts over a 10-year period from 2005 will be achieved.
3. Capital receipts achieved since May 2005 total £3.2 million.
4. The target for capital receipts has been amended for years 2008/09 and beyond to £1m per annum, net of expenditure on capital repairs.
5. Rental returns will be monitored to optimise the return on capital.

Background

6. Following the meeting of Committee on 7th November 2007, the Council's policy on the management of the smallholdings estate has been reviewed and updated.
7. The working practices have evolved over a number of years and the Policy was previously agreed by Cabinet and Council as part of the Council's Property Strategy on 19th May 2005.
8. In addition, the policy is an integral part of the Council's Corporate Plan 2007-2010 and the Asset Management and Property Services Plan 2007-2010. These documents are currently being revised for the 2008-2011 period.
9. The smallholdings estate consists of 61 farms, 11 dairy and 50 stock/arable, amounting to approximately 5,000 acres (2023 hectares), plus 164 acres (66 hectares) of woodland.
10. The estate is widely spread throughout the county. A location plan and list of the holdings is given in Appendix 1.

11. The estate achieved an annual income of £424,000 in 2006/07, plus approximately £16,000 in respect of milk quota. Last year's expenditure was £277,000, leaving a net income of £163,000. Estimated rental income for 2007/08 is in the region of £440,000. Exceptional one-off maintenance works have increased expenditure to approximately £300,000, leaving a net income of £140,000 for 2007/08. The amendment to the receipts target, as noted above, will reduce the impact on the revenue expenditure budget in future years.
12. A commentary on the estate policy, management strategy and expected outcomes are shown in Appendix 2.
13. The updated Management Working Practices are shown in Appendix 3.
14. The disposals to date, plus proposed future disposals, are shown in Appendix 5.
15. The current policy manages the estate on the basis of structured disposals of buildings and parcels of land and re-allocation of land to retained holdings.
16. In addition to the current policy, there are three alternative options, which may be considered:
 - a) Disposal of the whole estate as a single investment opportunity.
 - b) Disposal of the estate as individual lots, with sitting tenants.
 - c) Disposal of the estate as holdings become vacant.
17. Commentary on these options and the existing policy is given in Appendix 4.
18. The current policy of structured disposal provides the Council with value for money by optimising the capital and revenue returns from the estate.

RECOMMENDATION

THAT the Committee examines the Smallholdings Estates Policy attached to this report and determines whether it has any comments or suggestions it wishes to make to Cabinet thereon.

BACKGROUND PAPERS

None.

Ward	Farm	Acreage	Tenure	FBT exp	Farm Type
Burghill, Holmer and Lyde	Burghill				
	Lion Farm	62.82	retirement		stock/arable
	Grove Farm	62.54	FBT	Oct yr to yr	stock/arable
	Westfields	83.75	life		stock/arable
	Towtree (Dairy) Farm	56.22	FBT	28/09/11	stock
	Parks Farm	3.84	FBT	02/09/09	house/garden
	Parks Farm A	158.52	FBT	02/09/09	stock/arable
	Lower Parks	117.63	FBT	01/08/09	dairy
	Hospital Farm	39.63	FBT	02/02/09	stock/arable
Land at Hospital Farm A (Pt)	19.77	FBT	29/09/08	stock/arable	
Land at Hospital Farm A (Pt)	41.21	FBT	Jul yr to yr	stock/arable	
Stoney Street	Canonbridge				
	Swinmore Cottage Farm	57.33	life		stock
	Birches Farm	70.65	life		stock/arable
	Upper Hall	76.79	retirement		stock/arable
	Magnolia Farm	74.40	life		stock
	Hollyfield	87.39	life		stock
	Buildings, The Farm	0.98	FBT	yr to yr	buildings
The Elms	75.69	life		stock/arable	
Upton	Eye				
	Park Lodge	97.39	FBT	24/03/10	stock/arable
	Crossbrook Farm	73.67	life		stock/arable
Field Farm	74.69	retirement		stock/arable	
pt Belmont, St Martins Pt Hollington	Grafton				
	Ashley Farm	85.39	life		stock/arable
Veddoes Farm	65.16	life		stock/arable	
Ross East	Hildersley				
	Model Farm	91.24	retirement	02/02/09	sock/arable
Spring Farm	105.67	retirement	02/02/09	stock/arable	
Mortimer	Leintwardine				
	Land at Leintwardine	16.71	FBT	01/11/03	
Whitton	78.99	retirement		stock	
Hagley	Monkton				
	Highway Farm	62.91	FBT	01/02/10	stock/arable
	Lodge Farm	75.06	retirement		dairy
	Old Monkton	108.42	FBT		dairy
	Haycroft Farm	76.48	retirement		stock/arable
	Land at Upper Monkton	21.58	FBT	01/02/13	stock/arable
Land at Upper Monkton	23.37	FBT	01/02/13	dairy	

Ward	Farm	Acreage	Tenure	FBT exp	Farm Type
Castle	Nieuport				
	Bollingham Farm	92.19	retirement		stock/arable
	Prospect Farm	82.60	life		stock/arable
	Hillend	72.69	life		stock/arable
	Bank Farm	112.31	FBT	01/02/04	stock/arable
	The Parks	84.37	life		stock/arable
	Upper Spond	84.72	FBT	24/03/05	stock/arable
	Upper Spond A	76.79	retirement		stock/arable
	Upper Wootton	88.36	retirement		stock/arable
	Spring Grove	91.52	life		stock/arable
	Wood Farm	94.28	FBT	01/02/08	stock
	Lower Wootton	90.75	retirement		stock/arable
	Newhouse Farm	53.21	life		stock/arable
	Land at Newhouse Farm	28.96	FBT	28/09/11	stock/arable
	Newhouse Farm A	53.20	FBT	02/02/09	stock/arable
	Newhouse Farm B	87.46	retirement		dairy
	Cokesyeld Farm	65.25	FBT	01/05/09	stock./arable
	Questmoor Farm	81.13	retirement		stock/arable
	Station Farm	58.02	FBT	02/09/09	stock/arable
	Station View	71.79	FBT	01/02/12	stock/arable
New FarmHouse		FBT	30/06/10	house	
Land at New Farm	10.08	FBT	13/02/16	stock/arable	
Land at New Farm	28.02	FBT	30/06/10	dairy	
Oldcastle	55.77	life		dairy	
Upton	Nordan				
	Nordan Farm	160.48		05/03/15	dairy
	Quarry Farm	53.18	retirement		stock/arable
	Spring fields Farm land	27.14		13/08/26	
Pembridge & Lyonshall with Titley	Pembridge				
	Clearbrook	56.73	life		stock/arable
	Middlebrook	62.07	FBT	28/09/07	stock/arable
Golden Valley South	Rowlestone				
	Newhouse Farm	145.31	FBT	01/02/09	stock/arable
Golden Valley North	Westbrook				
	Bricklands	57.68	life		stock/arable
	Land at Westbrook Manor	27.47	FBT	02/02/11	
	Land at Westbrook Manor	31.48			
	Fairview	66.56	retirement		dairy
	Eastview	22.35	FBT	28/10/11	stock/arable
	Newton Farm	35.90	retirement		dairy
	Land at Newton Farm	29.68	FBT	01/02/20	dairy
Llangarron	Whitfield				
	Land at Little Whitfield	54.31	FBT	01/02/13	stock/arable
	Little Whitfield	62.22	life		stock/arable
	Thorn House Farm	53.24	life		dairy
	Lower Thorn Farm	60.61	life		dairy
	Land at Porch Farm	31.57	FBT	02/02/01	dairy
	The Yeld	77.63	retirement		dairy
	Land at Newhouse Farm	32.10	FBT	01/11/17	dairy
Frome	Woodcroft				
	Woodcroft	179.39		01/02/09	stock/arable

<u>Ward</u>	<u>Farm</u>	<u>Acreage</u>	<u>Tenure</u>	<u>FBT exp</u>	<u>Farm Type</u>
Various	Additional Properties				
	No.1 Old Monkton	0.18			
	Questmore Cottage	0.65			
	Highmoor Buildings				
	Woodland	164.00			
	other	36.84			
	Total		5238.13 acres		
		2119.754 hectares			

Notes:

Farm Business Tenancy (FBT)

Notice to Quit (NTQ)

Retirement: Council must provide alternative accommodation when the tenant retires.

Life: The tenant remains on the farm until death.

THE HEREFORDSHIRE SMALLHOLDINGS ESTATE**1. Background**

- 1.1 The Council's smallholdings estate is a way into agriculture for aspiring young farmers who have insufficient capital to purchase a holding of their own or to stock a large farm in the private tenanted sector. The problems of moving on from a smallholding to a larger farm are increasing year by year as the size of farms increases. The smallholdings estate also provides landscape, conservation and social functions. The Almeley Estate is the largest area of small enclosures with hedges forming a traditional landscape left in Herefordshire. The smallholdings estate is a base for rural skills that are fast disappearing. For an industry to thrive it needs young, innovative, enthusiastic and hard working participants. In agriculture as a whole we see the average age of farmers increasing with more and more land going to fewer and fewer individuals with an ever decreasing work force directly employed and a greater use of contractors being made to do standard maintenance work and peak time work which is likely to ensure that there is always an adequate supply of part time work available.
- 1.2 In the light of the above and the continuing fast changes in agriculture the estate will need to be rationalised. To pay for improvements with major repairs to farm buildings and houses, capital will have to be raised by the selling off of various holdings to leave a core estate that can be properly serviced to comply with Farm Assurance and the ever increasing demands of Health and Safety legislation. Farm Assurance is a physical check carried out every year on farms, covering grain handling and storage, stock facilities, etc. this guarantees that a farm is of a standard, suitable for the produce to be sold without restriction. Farms are independently certified and periodic spot checks are undertaken.

2. The Management Strategy

- 2.1 The past few years have seen major changes within the agricultural sector, and the Smallholdings Estate Policy must adapt to these. The major changes have been the introduction of Farm Business Tenancies, Agenda 2000, the BSE crisis, Foot and Mouth, more recently the incidence of blue tongue, deregulation of the milk markets, the increasing awareness of the general public over food safety and animal welfare, the fall in product prices and the increased pressures on the upgrading of fixed equipment to comply with Farm Assured schemes. In the light of these changed circumstances the Smallholdings Estate Policy has to change too.
- 2.2 If these issues are not faced then the Council holdings will cease to offer a "Ladder of Opportunity". At the same time the ratepayers will rightly question the Council holding an asset that only benefits a small number of tenants.
- 2.3 The Smallholdings Estate Policy assists the Council in reaching its targets as indicated in the Corporate Plan 2007 to 2010, the Asset Management Plan and the Asset Management and Property Services Plan 2007 – 2010 to ensure the flow of benefits from the Council's Smallholdings Estate to the whole community. The Smallholdings Estate Policy aims to:
- a) Keep the traditional landscape (example Almeley Estate is the largest area of traditional size enclosures remaining in Herefordshire).
 - b) Open suitable woodlands to the general public.
 - c) Open farms for educational purposes.
 - d) Explore the possibility of using a farm or farms for Care Farms in conjunction with social services.

- e) Promote farm shops which sell local produce and keep food miles to a minimum.
- f) Promote environmental benefits in conjunction with the bio diversity action plan and the carbon management plan.
- g) Promote employment of agricultural personnel.
- h) Retain a large capital asset which has shown a steady increase in value as a resource and can be utilised appropriately to assist future capital projects.
- i) Meet or exceed the relevant performance indicators from the Asset Management and Property Services Plan, which are:
 - i) 90% occupancy of farms (current occupancy 96%).
 - ii) To monitor rents on a monthly basis and work from 5% arrears towards a position of no arrears (currently no arrears).
 - iii) To re-evaluate 20% of the assets per annum (31% revalued last year).

3. Objectives

- 3.1 To rationalise the smallholdings estate as opportunities arise. Unsuitable or high maintenance properties will be disposed of as they become vacant.
- 3.2 To improve the retained building stock. An improved maintenance and refurbishment regime will increase the rental and capital value of the retained estate.
- 3.3 To generate £10,000,000 of capital receipts, net of expenditure on approved maintenance and improvement projects, over a ten year period from 1st April 2005. (See Appendix 5 – disposals to date).
- 3.4 To monitor rent arrears closely. Early intervention where rent arrears arise will aim to assist the tenant to repay any outstanding amounts and bring the farm back to profit.

4. Other Outcomes

- 4.1 To provide a range of starter farms for new entrants that would not otherwise be available on the open market.
- 4.2 To provide, encourage and facilitate progression into full time commercial holdings within the estate.
- 4.3 To forge links with private estates to encourage them to promote the letting of holdings to Council tenants, and encourage and facilitate such moves by tenants.
- 4.4 To seek to broaden and improve the skills and knowledge of the tenants.
- 4.5 To work in partnership with the tenants to enable them to maximise the earning potential of their holdings including through diversification.
- 4.6 To encourage diversification and the development of income from outside the holding, wherever it is compatible.
- 4.7 To improve the capital value of the holdings by investing in modern facilities and low maintenance requirement improvements.

- 4.8 To obtain for the Council an acceptable return on capital from the smallholding portfolio by rationalising the estate as opportunities arise.
- 4.9 To encourage, support and promote environmentally sensitive practices on the farms and in the woodlands, particularly under the Countryside Stewardship Scheme.
- 4.10 To protect and enhance the smallholding estate's most important physical features such as lakes, rivers, listed buildings, Sites of Special Scientific Interest (SSSI's), ancient monuments etc., and other natural habitats.
- 4.11 To encourage and promote the highest standards of animal welfare, and to ensure that these high standards are upheld.
- 4.12 To ensure that all buildings where food produced is stored or processed meet the stringent hygiene standards.
- 4.13 To encourage the use of the smallholdings estate as a corporate resource of the Council, opening woodlands to the public, farm open days etc.
- 4.14 To encourage sustainable practices across the estate in farm and woodland management.

5. The Farms

- 5.1 The farms should provide opportunities to build capital to progress up the farming ladder, and beyond the Council smallholding sector. This implies that the farms should be reasonably equipped, offer a variety of sizes, and be capable of allowing a tenant to make a part time, or full time living. This would be ensured by the provision of starter farms, and larger progression units, and making use of the Farm Business Tenancies Act in order to maintain a progressive flow.

6. The Environment

- 6.1 Council farms shall demonstrate best practice in terms of care for the environment and encourage tenants to take part in agri-environmental schemes such as the Countryside Stewardship Scheme, planting up difficult corners, re-vitalising ponds etc. The Council will take the lead as necessary. The Council in its turn will exercise care in the management of SSSI's, ancient monuments, listed buildings and woodlands under its control.

7. Efficient Use of Resources

- 7.1 The Estate shall be managed to achieve the best financial return to the Council within its overall aims. This will involve a continuous review of opportunities to develop or enhance land and the adoption of efficient management practices, acting within the overall policy guidelines of the Council.

8. Valuation of the Estate

- 8.1 The smallholdings estate is valued at £4,253,000 as at 31st March 2007.
- 8.2 The valuation of the estate is based on the instructions and guidance for valuation of rented farms as set out by the Association of Chief Estates Surveyors and follows CIPFA regulations and RICS "Red Book" Valuation Standards.

9. Revenue Budget (2006/07)

9.1

	Actuals 2006/07	Budget 2007/08
Employees	380.00	
Premises	268,092.57	218,630.00
Supplies & Services	<u>8,854.37</u>	<u>1,290.00</u>
Total Expenditure	<u>277,326.94</u>	<u>219,920.00</u>
Rental Income	424,050.08	398,690.00
Milk Quota	15,900.02	5,490.00
Other Fees And Charges	<u>273.50</u>	<u>0.00</u>
Total Income	<u>440,223.60</u>	<u>404,180.00</u>
Net Income	<u><u>162,896.66</u></u>	<u><u>184,260.00</u></u>

9.2 For 2006/07, this equates to a return on capital invested of 10.3% gross (3.8% net of expenditure). For 2007/08, the estimated outturn is 9.5% gross (4.3% net of expenditure).

10. Capital Programme

10.1 All expenditure from 1998 has come from revenue budget provision.

10.2 It has been agreed that future approved capital expenditure will be provided from receipts in excess of £1,000,000 in each year.

**Smallholdings Estate
Management Working Practices**

In order to implement the Council's policy, the following working practices are the practices to be adopted for the Council's smallholdings estate.

1. Surrender of Holdings
 - 1.1 Tenants who wish to surrender their tenancies early to allow them to move to another holding, whether within the Smallholdings Estate or outside, should be allowed to do so with a minimum of 6 months notice.

2. Re-letting of Holdings
 - 2.1 Unless there is a recommendation to amalgamate, dispose of part or whole or redevelop a holding, when a holding becomes vacant, arrangements will be made to re-let. The vacant holding to be re-let will be advertised in the appropriate national and local publications. A shortlist will be drawn up and interviews will be conducted by a panel of Councillors. The Panel comprises the Cabinet Member with responsibility for smallholdings, plus a Councillor from each of the parties, chosen by the Leader of the Council, all of whom will normally have agricultural experience. The panel, which will be advised by the County Land Agent and having regard to the Council's recruitment and selection policies and practices, will make a decision as to the most appropriate candidate for the tenancy. The tenancy will be for 6 years with an option to renew for a further 12 years.

3. Applicants for the Tenancy
 - 3.1 Applicants will normally only be considered if they are suitably qualified in that they must:
 - i) Have spent at least 5 years in agriculture, which may included up to 3 years at an agricultural college studying for an agricultural qualification and have sound practical knowledge.
 - ii) Have sufficient capital to farm the holding, currently a minimum of £10,000. The amount will be decided from time to time by the Director of Resources.
 - iii) Except in exceptional circumstances be under the age of 40.
 - iv) Succession: where it is intended to re-let the holding and a person, who is closely related to the previous tenant and who has worked on the holding, either in a full time or part time capacity, for 5 years or more, wishes to take on the tenancy, they will be offered the opportunity to take on the tenancy, subject to being deemed suitable by the Panel of Councillors at interview. While the conditions of the tenancy will be on the current terms and conditions, the holding will not necessarily remain the same size.

4. Progression within the Estate
 - 4.1 Where a particular vacant holding is considered to be a progression opportunity for existing tenants, it will be advertised amongst the Council tenants before being advertised generally. If no suitable tenant applies, the holding will be advertised nationally in accordance with the paragraphs above. Where an internal tenant progresses to a larger unit, the vacated holding will be advertised nationally.

5. Amalgamation of Land and Holdings
 - 5.1 Where it is deemed beneficial to estate management, holdings may be reduced or increased in size or split up as opportunities present themselves. The increased

flexibility brought about by the Farm Business Tenancy will enable more efficient estate management. Where changes in terms under pre-1995 tenancy and/or conditions are sought by tenants and it is agreed that these terms and conditions may be altered, the tenancy will be changed to a Farm Business Tenancy.

6. Other Land and Occupations

6.1 Previous tenancy agreements restricted tenants from farming other land or engaging in any other occupation. In recent years this has been relaxed due to changes in agriculture, and the effect that such an onerous restriction may have at rental arbitration. Tenants will be allowed to farm up to the same area again as the holding without permission of the Council, and, in exceptional circumstances, may be allowed to farm more provided that the Council's position is not being prejudiced and it is not against the objectives of the smallholdings estate. The Council is only obliged to provide facilities for the holding it lets and not extra land.

6.2 With respect to other employment, the Council recognises that by their nature some of the farms will be part time holdings. Other employment will be allowable provided that it is flexible enough to allow for the proper management and husbandry of crops and stock and the maintenance of the holding. This will normally preclude tenants engaging in work with fixed hours.

6.3 Tenants will be encouraged to acquire other land and retirement houses in order to help their progression from Council Smallholdings.

7. Tenants Fixtures and Improvements

7.1 The Council will give consent to tenants to carry out improvements to their holdings, where these will provide long-term benefits, which the Landlord will be prepared to compensate the tenant for at the end of the tenancy. Such improvements must be of a general nature and not specialist. In other cases where consent is not granted the tenant will be allowed to remove the items or fixtures at the end of the tenancy subject to the normal legislative requirements. (It should be noted that the Council will not take to improvements that are more than are required for the area of land let.)

8. Landlord's Repairs and Improvements

8.1 The Council will endeavour to set aside 50% of the rental income for repairs and improvements across the Estate. The aim will be to spend equal amounts on routine maintenance and improvements. Where improvements are carried out they should meet the following criteria, except in exceptional circumstances:

- i) Be necessary to comply with legal/statutory requirements e.g. pollution control.
- ii) Reduce future maintenance requirements.
- iii) Result in an economic return on the investment through increased rent.
- iv) Add value to the Smallholdings.

9. Rent Reviews

9.1 Rents on all Agricultural holdings will be reviewed every three years as allowed under The Agriculture and Agricultural Holdings Acts. When farm incomes are reducing the Council will not necessarily serve the review notices, unless it is felt that a rent increase is appropriate in order to minimise the chances of the tenant taking advantage of the notice for a downward review.

- 9.2 Rents on cottages will be reviewed every year.
- 9.3 Farm Business Tenancies may be reviewed at the mid point of the six years, and every three years on 12 year Farm Business Tenancies.
10. Rent Arrears
- 10.1 A strong line will be taken with all rent arrears.
- i) For pre-1995 agreements, if the rent is not paid within one month of being demanded, a two month Notice to Pay will be issued, if payment within the two month period of the whole amount is not made then a Notice to Quit will be issued. Non-payment within two months is an irremediable breach of tenancy and the Notice to Quit cannot not be challenged, if served correctly.
 - ii) Post-1995 agreements, Farm Business Tenancies (FBT). The rent must be paid within one calendar month of being demanded and, if not, interest will be chargeable at 6% over base rate from that date. If rent is still unpaid within one month of that date, (2 months from the date of the rent being due) the tenant will be regarded as being in irremediable breach of his tenancy and a forfeiture notice will be served.
 - iii) Rent arrears are to be kept below 5% of the annual rent roll.
- 10.2 Any variation of the above working practice will have to be agreed with the Director of Resources, in writing.
11. Milk Quotas
- 11.1 Milk Quotas were introduced in 1984 and have become a tradable commodity with a value that fluctuates both for leasing and purchase. The Council as landlord has an interest in the holding and will seek to achieve the following:
- i) Agree the landlord/tenant split on all holdings. The apportionment is based on a complex formula, details of which are available from the County Land Agent.
 - ii) Normally compensate the outgoing tenant for their share of the quota in order to maintain the quota on the holding if it has been decided to keep the holding in dairy.
 - iii) The Council will sell on the open market all Milk Quota that comes in hand.
12. Cessation of Dairying
- 12.1 It is anticipated that a number of holdings will wish to give up milk production in the near future. Where a tenant wishes to give up dairy farming they will be allowed to do so on the following terms:
- i) The rent remains the same for 3 years or until it is reviewed.
 - ii) The milk quota will be taken off the farm and the Councils share of the quota sold. The tenant will sell his/her quota at the same time.
 - iii) The Council will not be obliged to provide extra buildings.

- iv) The tenant will be requested to enter into a FBT on the same terms as his present tenancy except that retirement at 65 will be compulsory, and if the tenant is over 60 the retirement age will be 5 years from that date.
- 13. Conservation Initiatives
- 13.1 The Council will encourage tenants to participate in the Countryside Stewardship Scheme, Farm Woodland Scheme and any other such initiatives.
- 13.2 At a change of tenancy, the Council will arrange and pay for a report by the Farming and Wildlife Advisory Group on the conservation potential of the holding and will encourage the incomer to maximise on that potential.
- 13.3 The Council acknowledge that this may result in lower rents.
- 14. Farm Record of Condition
- 14.1 A comprehensive record of condition shall be completed by the County Land Agent and agreed and signed by the tenant at the same time that the tenancy agreement is completed. All the repairing clauses, both tenants and landlords in the agreement will presume that the buildings, fences etc. are as per the record of condition so that in the case of disputes the record of condition shall be relied upon to give full details of conditions at the commencement of the tenancy. The farm buildings will be inspected annually to agree repairs.
- 15. Tenant Right and Tenants' Improvements
- 15.1 The incoming tenant (or their agent) will treat with the outgoing tenant (or their agent) concerning tenant right. Tenants' improvements will be agreed in writing by the tenant with the landlord, and any works not agreed or of a specialist nature will not be compensated for by the landlord but compensation may be agreed with the incoming tenant or the works removed by the outgoer leaving the site in the same condition that it was before the tenant started his works.
- 16. Health and Safety
- 16.1 The tenant will comply with all health and safety requirements, including keeping a COSHH report for the landlord to inspect. The landlord will provide the tenant with a copy of the Asbestos reports, and electrical report.
- 17. Sporting and vermin control
- 17.1 The sporting rights will run with the land and vermin control will be the responsibility of the tenant.
- 18. Insurance
- 18.1 The landlord will insure the buildings for fire provided that their use is for agricultural purposes only. The tenant will be responsible for insuring the buildings for all other uses, as well as their live and dead stock and personal effects, and for insuring the buildings for uses other than agriculture.
- 19. Farm Diversification
- 19.1 The Council will encourage tenants to develop farm based alternative sources of income, such as Bed & Breakfast, added value food products, recreational pursuits, subject to these not conflicting with the main aims of the estate and being appropriate to the locality.
- 19.2 The tenants would be responsible for obtaining all necessary consents.

20. Rationalisation

- 20.1 The Council will seek to rationalise the estate with judicious disposals of higher value high maintenance, redundant or surplus properties and development land investing part of those monies in land purchases or improvements to existing properties that will yield a reasonable return and or provide land for low cost housing in the future.
- 20.2 The County Land Agent will inform local members of the intention to dispose of a smallholdings asset.

21. Single Farm Payment (SFP) – compensation – tenant right

- 21.1 The capital value of the SFP to an out-goer will be compensated for by the in-goer at a value to be agreed between the in-goer and out-goer and/or their valuer/agents. If the parties fail to agree, an arbitrator from the RICS panel may be appointed or an independent valuer be appointed by the agreement of both sides to mediate.
- 21.2 The above paragraph will be inserted in the particulars of the holding.
- 21.3 The Council as landlord will only be involved where there is no in-goer and will then compensate the out-goer as appropriate.
- 21.4 In any new Farm Business Tenancies a new clause will be inserted to this effect.

Options Appraisal

The options for the management of the smallholdings estate are as follows:

- i) **Disposal of the whole estate as a single investment opportunity.**
 - ii) **Disposal of the estate as individual lots, with sitting tenants.**
 - iii) **Disposal of the estate as holdings become vacant.**
 - iv) **Structured disposal of buildings and parcels of land and reallocation of land to retained holdings.**
- i) **A single investment opportunity**
 - a) The estate is not an attractive investment opportunity consisting of 61 farms which are split up over much of the county, making management difficult, with few houses of high value and few barns for conversion where the opportunities have not already been taken to apply for planning permission.
 - b) There are 40 farms that are held under the Agricultural Holdings Act and these would be converted to succession tenancies (for 3 generations) if purchased by anyone other than a smallholding authority. Also there is a major maintenance programme required.
 - c) A likely discount for the whole estate would be in the region of between 40% and 50% of open market value.
 - ii) **Individual lots with sitting tenants**
 - a) Farms will be offered on the open market, with the existing tenancies, to individual purchasers and tenants. This will inevitably involve discounts for the various reasons given above and would lead to the fragmentation of the estate and leave the remainder of the estate more costly to run. (Shropshire is a good example where this approach was adopted and it has not been a success).
 - b). A discount would be in the region between 20% and 30% of open market value.
 - iii) **On vacancy**
 - a) Farms will be offered as soon as vacant possession can be obtained.
 - b) Younger tenants will leave the estate first as their Farm Business Tenancies expire.
 - c) There will be fragmentation of the estate but full market value will be obtained.
 - iv) **Structured disposals and reallocation of land**
 - a) This will allow for a continuous planned sale of farms, the restructuring of some farms whilst reducing the maintenance requirements and, where the land has long term other uses, development, mineral extraction etc.
 - b) It will allow the retention of some of the land as an increasingly valuable and scarce asset, a steady source of capital per annum and a source for larger capital sums when required by the Council for major projects.
 - c) Land could be made available for future Council development projects.

- d) Full value would be obtained, although the time scale for complete disposal would be considerable.

Indicative Valuations (based on Vacant Possession)

40 Average quality houses	@	£250,000 each	=	£10.0m
14 Semi detached	@	£250,000 each	=	£3.5m
4 Good quality houses	@	£500,000+	=	£2.0m
Land – 5,074 acres	@	£4,000 per acre	=	£20.3m
Woodland 164 acres	@	£2,700 per acre	=	£0.4m
		Total		<u>£36.2m</u>

A pragmatic Vacant Possession value of the estate is £36m.

By utilising the current policy of structured disposals and reallocation of land, which takes full advantage of selling opportunities and optimises the sale of the houses with the land etc., this value could potentially be increased by about 20% to approximately £43.2m.

Therefore based on the vacant possession value above and applying the appropriate discounts and enhancements, the various options are valued as shown below:

Option 1	£18–£21.6m
Option 2	£25.2–£28.8m
Option 3	£36m
Option 4	£43.2m (present policy)

Note: The policy for managing the estate and the planned disposal of property should be looked at in the knowledge that land prices have risen by about 20% since the last report in 2003.

During this time agriculture has been in recession. Grain prices have approximately doubled in the last year and are unlikely to fall in the foreseeable future due to increasing world wide demand for grain for food and for the new demand for bio fuels. The effect is likely to be a continued growth of land prices due to increase in returns, shortage of supply, demand for tax purposes and buyers from abroad where land is of no better quality but considerably higher value.

Smallholdings Disposal Programme

The policy of disposals is on the basis that properties with high maintenance and management costs are disposed of whilst retaining as much land as possible.

The properties sold to date are:

<u>Apr 05 - Mar 06</u>	<u>Smallholding</u>	<u>Price (£)</u>	
May-05	Nordan (land only)	11,000	
Sep-05	Nordan Farm house	275,000	
Dec-05	Westbrook Manor	375,000	
			sub total
Jan-06	Clearbrook land	80,000	£741,000
<u>Apr 06 - Mar 07</u>			
Oct-06	Waygate	340,000	
Nov-06	Nieuport Gardens	255,000	
Dec-06	Lateware	450,000	
	Parcel of land at Tow Tree farm	11,727	
Dec-06			sub total
Jan-07	Monkton Farm house	505,000	£1,561,727
<u>Apr 07 - Mar 08</u>			
Apr-07	Parcel of land at Tow Tree	10,575	
			sub total
Sep-07	Newhouse Farm, Daffaluke +25ac	887,220	£897,795
		Total to date	£3,200,522

<u>Year</u>	<u>Proposed sales</u>	<u>Comment</u>	<u>Value</u>	
2008	Westbrook Farm buildings		£250,000	
2008	Lion Farm House		£350,000	
2008	Lion Farm buildings		£200,000	
2008	Woodcroft		£1,750,000	
2008	Middlebrook, Pembridge + 10ac	House plus 10 ac	£500,000	
		Total for year 08/09		£3,050,000
2009	Hospital farm, Burghill	Awaiting covenant to be lifted	£350,000	
2009	The Parks, Burghill	Complex of 2 cottages and redundant farm buildings with 3 acres of land	£1,000,000	
2009	Station Farm	House plus some land	£700,000	
2009	Land at Hildersley Model Farm	Employment land	£1,500,000	
2009	Newhouse Farm, Rowstone	House plus some land	£800,000	
2010	Highway Farm, Monkton	House plus some land	£500,000	
2010	Land at Hildersley Model Farm	Employment land	£1,500,000	
		Total for future years		£6,350,000
				£9,400,000

Other properties will become vacant during this period and will be added to the list at the appropriate time.

The 10-year target of £10m is achievable in 6 years.

Notes:

Hildersley Model Farm is a phased disposal over two years.

The properties proposed for sale over the next years are those which fit in with the criteria for disposal and some opportunity sales will be added as appropriate.

The main risks and delays are in obtaining vacant possession, planning permission and a temporary fall in the market.

The figures quoted above are estimates of potential value and neither the amount nor the timing of the receipts can be guaranteed.

THE COUNCIL'S POLICY FOR MANAGEMENT OF THE SMALLHOLDINGS ESTATE

Report By: Director of Resources

Wards Affected

County-wide.

Purpose

1. To advise the Strategic Monitoring Committee of the Council's policy for the management of the smallholdings estate.

Financial Implications

2. It will be difficult to achieve current revenue income budgets with the impact of further property sales resulting in a reduction in rental income receivable. However in the medium to long term the increase in crop prices will result in an increase in rental values but only when rent reviews or a change in tenancy takes place.
3. Capital receipts achieved to date total £3.2 million.
4. The target of £10 million capital receipts over a 10-year period from 2005 will be achieved.

Background

5. This report is to comply with a request from the Strategic Monitoring Committee for more information on the Council's policy for the management of the smallholdings estate.
6. The Council's smallholdings estate extends to over 5,500 acres (2,223 hectares) and includes 61 farm units and 2 stand-alone cottages.
7. The estate is widely distributed across the county.
8. There are 11 dairy farms and 50 stock and/or arable farms, plus 164 acres (66.4 hectares) of woodland.
9. Forty farms are held on tenancies under the Agricultural Holdings Act 1986 that would convert to 3-generation succession tenancies if not sold to a smallholding authority.
10. The estate achieved an annual income of £424,000 in 2006/07, plus approximately £16,000 in respect of milk quota. Last year's expenditure was £277,000, leaving a net income of £163,000. The annual income budget has fallen to £404,000 in 2007/08.

Further information on the subject of this report is available from
Malcolm MacAskill, Head of Asset Management and Property Services on (01432) 260227

11. The current policy for the management of the estate was approved by Cabinet on 19th May, 2005 as part of the Council's Property Strategy. The policy includes
 - a) The rationalisation of the estate as opportunities arise.
 - b) Gradual improvement of the retained building stock.
 - c) offering vacant farms to aspiring young farmers
12. This policy of managed rationalisation of the Council's Smallholdings estate also forms part of the Council's Asset Management Plan. The policy is therefore to rationalise the estate by disposing of unsuitable or high maintenance property as the opportunity arises, with a receipts target of £10 million over a 10 year period. This was re-emphasised in the report to Cabinet, on 18th January, 2007, on Asset Management Plan Overview Issues.

Risk Management

13. Estimated disposal values cannot be guaranteed.
14. Active management of the estate to maintain income levels in the face of difficult market conditions and to improve capital value.

Alternative Options

15. The Council could decide to dispose of the smallholdings estate:
 - a) As a single investment opportunity with sitting tenants.
 - b) As individual sales on the open market with sitting tenants.
 - c) As individual sales when properties become vacant.

RECOMMENDATION

- THAT: (a) the Council's policy for the management of the smallholdings estate be noted; and**
- (b) any suggestions to make to Cabinet be determined.**

BACKGROUND PAPERS

- Smallholdings Estate Management Policy – Background and Smallholdings Estate Management Policy - Strategy
- Property Strategy report to Cabinet 19th May, 2005.
- Asset Management Plan: Overview Issues Report to Cabinet 18th January, 2007.

THE IMPORTANCE OF THE COUNTY FARMS SERVICE TO THE RURAL ECONOMY

**Sir Donald Curry, CBE FRAgS
Chair, Sustainable Farming and Food Delivery Group**

November 2008

THE IMPORTANCE OF THE COUNTY FARMS SERVICE TO THE RURAL ECONOMY

The future of Local Authorities' land holdings is reviewed from time to time. This paper has been introduced to provide up to date guidance for Local Authorities recognising the strategic importance of their land holdings and the commercial and societal benefits they can provide.

Key Messages

Farms owned and managed by Local Authorities are an important, strategic, national asset that should be retained.

These farms assist Local Authorities in meeting wider regional economic, countryside and environmental objectives and provide an essential route into farming for new entrants.

Recommendations

It is now five years since the Tenancy Reform Industry Group (TRIG) recommended greater networking and collaboration in the management of Local Authority Estates. This now needs to be pursued.

Regional Economic Strategies should recognise the importance of the County Farm structure as a crucial entry point for new entrants to agriculture.

Local Authorities should carry out strategic reviews of their estates so that policy decisions on the retention, disposal or acquisition of land take a longer-term view seeking to maximise revenue from development whilst not undermining the principal objectives of the estates.

Local Authorities should make greater effort to develop the wider benefits that their land holding could provide particularly in regard to renewable energy, local food, public access, education, employment and the broader rural economy.

Background

The agricultural units now owned and managed by 50 county councils and unitary authorities in England and Wales (referred to as County Council Farms) have their origins in central Government policy of the early 20th Century when there was a major concern about the decline in agricultural employment. This led onto a wish to provide farming opportunities for returning ex-servicemen from the two world wars.

The *1970 Agriculture Act* embodied the further evolution of the holdings as units to provide a much wider franchise for individuals to farm in their own right. In 1984, the House of Lords, in debating what would become the *1984 Agricultural Holdings Act*, emphasised the role these holdings played as “starter units” which would encourage tenants to move onto larger holdings elsewhere.

The question now is ‘what role do these farms play in the early part of the 21st Century?’ Today’s challenges are very different to those of a century ago. Local authorities have many more competing demands on their scarce resources and society’s link with farming and agriculture has become weaker. However, there are still many looking to get into farming but who lack the capital to purchase land or to take on larger tenancies offered in the private sector. There is strong evidence that entrepreneurs will succeed provided entry opportunities exist.

Statistics

In England in 2006, 50 counties and unitary authorities owned and managed 96,206 hectares (237,725 acres) of agricultural land as statutory smallholdings¹. This land is let to 2836 tenants¹ under tenancies governed by both the 1986 Agricultural Holdings Act and the 1995 Agricultural Tenancies Act. In 1984, a total area of 137,664 hectares (340,167 acres) was let to 6753 tenants². Over that 22 year period the amount of land on smallholdings estates has:

- fallen by **41,458**, a **30%** reduction, this equates to an average reduction of **1884ha per year**.
- number of tenants has fallen by **3917** a reduction of **58%**.

The rules for administration of statutory smallholdings are set out in Part III of the Agriculture Act 1970. Councils in their role of statutory smallholding authorities have a power under legislation to provide farms to those who wish to be farmers in their own right. This stems from Section 39 of the 1970 Act which reads:

“... having regard to the general interests of agriculture and of good estate management, [smallholding authorities] shall make it their general aim to provide opportunities for persons to be farmers on their own account by letting holdings to them”.

¹ Fifty Sixth Annual Report to Parliament on Smallholdings in England, 01 April 2005 -31 March 2006.

² Thirty Fourth Annual Report to Parliament on Smallholdings in England, 01 April 1983 -31 March 1984.

Meeting the Statutory Objective

To meet the objective set out in Section 39 of the 1970 Act, smallholdings authorities need to offer opportunities to new entrants and to work to sustain existing tenants in their farming career. In the long term this could be on either the local authority estate or in the private sector. It is not sufficient to only offer opportunities for new entrants to come into the industry if they cannot then make the transition on to larger holdings in the public or private sectors. A much more integrated approach needs to be taken between Local Authorities and the private sector to ensure transition by working with organisations such as Fresh Start and English Farming and Food Partnerships to increase the opportunities available for Local Authority tenants. More active management within estates could help create business development opportunities for tenants both inside and outside Local Authority ownership.

Disposal of County Farms

All interested parties understand the financial pressures faced by local authorities in managing their various commitments and statutory responsibilities. This has led to a number considering an accelerated programme of farm disposals. However this threatens to undermine the objectives of county farms. Research has shown that county farms are the principal route into farming for new entrants.³ If the decline in the number and area of county farms continues at the current rate this will be a major blow for the future of the agricultural industry.

New entrants are essential for any industry, however, the capital requirements of agriculture make farming one of the most difficult industries to enter. This is particularly true today. Tenancies offer a very useful and effective way of bringing in new entrants to agriculture and sustaining businesses into the long term since both the capital requirements and risk are shared jointly between landlord and tenant in long-term, binding agreements. The County Council farm structure has, in the past, provided a major contribution to this and should be allowed to retain the capacity to continue to do so in the future.

County Councils and Unitary Authorities should view their land holdings as an entry point into agriculture for new entrants and as a spring board to progress to larger units. Every effort should be made to encourage progression.

In responding to the 2003 report of the Tenancy Reform Industry Group (TRIG)⁴ the Government said that local authorities should continue to follow the provisions of the Agriculture Act 1970 and that it shared the concerns of TRIG about the potential adverse, long term impact that continuing sales of County Council Smallholdings will have on farming and the rural economy.

³ An Economic Evaluation of the 1995 Agricultural Tenancies Act, University of Plymouth, April 2002.

⁴ Government Response to the Report of the Tenancy Reform Industry Group (TRIG), DEFRA, 15 December 2003.

Key Messages

Farms owned and managed by Local Authorities are an important, strategic, national asset that should be retained.

These farms assist Local Authorities in meeting wider regional economic, countryside and environmental objectives and provide an essential route into farming for new entrants.

Case study: Matthew Naylor, Sycamore Farm, Spalding

Matthew Naylor and his father are Leaf accredited farmers supplying a range of cut-flowers and potatoes to supermarkets from their farm in Spalding, Lincolnshire. Eager to make his own way in the world, Matthew left school at 16 and began working on the family farm. Before he was 20, he had already rented 2 small plots from the Parish Council, where he grew potatoes and flowers to supplement his income from the family farm. These early steps taught Matthew vital lessons in efficient production and marketing. Following an approach by a flower supplier to Sainsbury's, Matthew planted Delphiniums and Peonies. After several years of failed applications, Matthew's big break came in 1999 when he took on a tenancy at Vickers Farm, Moulton Marsh. In 2000, he amalgamated his interests with his father's and formed an equal partnership, taking on a further neighbouring block of land along the way. In his own words "Starter holdings are a very important part of a progressive and meritocratic farming industry. A structure that encourages tenants to keep moving upwards provides the crucial first step: vacant small farms for new entrants."

The Need for a Review of the Strategic Importance of County Farm Estates

The county farm estates are clearly owned by county councils and unitary authorities. They are, however, a very important strategic national asset and as such there should be a greater recognition of this in their management. Some County Councils run their estates extremely well and others perform not so well. Understandably there is an ad hoc policy towards County farms up and down the country. Some County Councils have decided to follow a policy of disposal and others one of retention. For such an important asset in the landlord/tenant system a more co-ordinated approach could be helpful.

One of the recommendations contained in the report of the Tenancy Reform Industry Group of June 2003⁵ was that there would be merit in investigating the potential for greater networking and collaboration in the management of County Council Smallholding Estates. In responding to the report, the Government agreed that County Council Smallholdings had an important role to play in providing a gateway through which able and experienced people can start a farming career which might otherwise be denied them. In view of this the Government fully supported the idea of greater networking and collaboration in the management of County Council smallholdings. However there is little evidence to date of progress on this suggestion.

The vision should be to create a stable, long-term framework for the profitable management of County Council farms. The following objectives are essential components in that process:

- To ensure that County Council farms continue to provide their principle function of creating opportunities for individuals to be farmers on their own account.
- To provide a more integrated management system for all County Council Smallholding estates.
- To reduce global costs of administration.
- To provide flexibility to local authorities in managing their asset portfolio.

Recommendation

It is now five years since TRIG recommended greater networking and collaboration in the management of Local Authority Estates. This now needs to be pursued.

Case study: Staffordshire County Council

In March 2007, Staffordshire County Council announced they were going ahead with a positive programme of actions to reinvigorate the County Council's farm estate. This followed a review and consultation of property assets which revealed that retaining and investing in County farms offered taxpayers economic, social and environmental benefits. Council Leaders agreed that a carefully managed land portfolio will meet the needs and aspirations of a new generation of enterprising farmers as well as increasing income to support vital frontline public services and providing opportunities for the wider community to get more involved in food and farming on their doorstep.

<http://www.staffordshire.gov.uk/NR/rdonlyres/1289B97A-9ADD-4775-A049-8ADA55461AE8/71169/Item6PRINT.pdf>

⁵ Tenancy Reform Industry Group (TRIG), Final Report, DEFRA, 16 May 2003.

Regional Strategic Plans

The regional economic strategies of the Regional Development Agencies also need to recognise the importance of the County Farms structure as crucial entry points for Fresh Start graduates and others, looking to enter the farming sector, within the Sustainable Farming and Food Strategy.

Recommendation

Regional Economic Strategies should recognise the importance of the County Farm structure as a crucial entry point for new entrants to agriculture.

Case study: Jonathon and Rebecca Congdon, Trebrow Farm, Cornwall

Jonathon and Rebecca Congdon are poultry farmers at Trebrow Farm Cornwall; part of Cornwall County Council's Farm Estate. Despite the cost of entry being in excess of their own savings and loans offered by the Banks, the Congdon's now farm a 10,000 bird laying poultry unit. When applying for the Trebrow Farm tenancy, the Congdon's used Cornwall's Fresh Start scheme to work with a consultant to develop their business plan, access the Loan Scheme set up by Cornwall Agri-Food Council Development Team (CACDT) and for business/mentoring support once they took up the farming enterprise. The Loan Fund was established to assist new entrants and tenant farmers who lacked equity to finance new investment into new enterprises or new holdings but who had a sound business plan. Funding was through the (EAGGF/Defra) Objective One Programme, secured by CACDT and administered by the South West Investment Group, an FSA approved organisation with experience in handling loans to South West businesses. The Congdon's business plan set out detailed gross margins and cash flow, clearly showing that the business could sustain the borrowing required and will achieve pay back within 7 years.

Development Opportunities

Local Authorities can, of course, realise significant sums through the sale of individual farms or pieces of land with development potential. There can be no opposition to such sales as it can greatly benefit the income of County Councils whilst maintaining (and possibly enhancing) the bulk of the agricultural estate.

Local authorities should look to take a more long term, strategic and patient approach to disposals which will enable maximum benefit with minimum disruption. Local Authorities should carry out a strategic review of their estates to assist in policy decisions to be taken on retention and disposal over a longer time period.

Local Authorities are well placed to identify future development opportunities and should consider acquiring land as the opportunities arise. Active asset management could be of real benefit to Local Authorities and create entry points for new entrants.

Recommendation

Local Authorities should carry out strategic reviews of their estates so that policy decisions on the retention, disposal or acquisition of land take a longer-term view seeking to maximise revenue from development whilst not undermining the principal objectives of the estates.

Case study: Gloucestershire County Council

In the 33 years since Local Government Reorganisation in 1974, Gloucestershire County Council has raised around £50 million in careful, patient planned disposals of land for development. The bulk of this has been raised over the last 20 years. It has also secured a roughly similar sum by way of Section 106 (planning gain) benefits from these sales from essential infrastructure investment such as new roads and schools which would otherwise have secured a commensurate additional capital receipt sum. At the same time the Council has invested about £10 million back into its smallholding estate by way of modernisation and purchase of additional land to the extent that its total land holding on its smallholding estate has hardly changed at all.

Wider Benefits

Ownership of County farms also assists local authorities directly in meeting wider objectives in relation to countryside and environmental issues. A wide range of benefits could be provided including renewable energy, waste utilisation, local food, re-connection with the urban population, access to the countryside, learning outside the classroom, planning policies, greenbelt management and assisting in the management of flood risk. A more strategic approach is necessary to realise these potential benefits.

Recommendation

Local Authorities should make greater effort to develop the wider benefits that their land holding could provide particularly in regard to renewable energy, local food, public access, education, employment and the broader rural economy.

Conclusion

1. County Council smallholding estates are an important, strategic, national asset that should be retained.
2. More effort should be made to support existing and future tenants on these estates to sustain their businesses either on the smallholding estates or in actually encouraging moves in the future into the private sector.
3. There should be greater collaboration between individual County farm estates to help effective management.
4. Local Authorities should seek to manage their disposals of land from estates in a more patient and thoughtful way to maximise revenue from development sales whilst not undermining the principal objectives of the estates. Some of this development profit should be used to re-invest in the estate.
5. Local authorities should pay greater attention to the wider benefits derived from owning and managing their estates and should regard County Council Farms as a vital part of the wider regional economic strategy.

Case study: Andrew & Judith Fewings, Lower Marsh Farm, Dunster, Crown Estate

Andrew and Judith Fewings are both from a farming background. They started their joint farming life in 1992 on a 64 acre Wiltshire County Council farm in Keevil, near Trowbridge farming just 22 cows. The Fewings built their herd up to 55 cows in five years before outgrowing the farm and taking a Farm Business Tenancy with another much larger Wiltshire County Council owned farm. Another five years saw the Fewings grow their business beyond this farm's size and in 2004 they took on Lower Marsh Farm, part of the Crown Estate at Dunster. Here they farm 336 acres in total, milk 150 cows plus 100 followers and also grow maize and spring barley. In just 12 years, the Fewings have progressed to a herd ten times the size they started with and a farm six times the size. Without the opportunities offered through their two tenancies on County Council farms they may never have developed the skills needed to make this progress.

This document was produced by Sir Don Curry in collaboration with the Tenant Farmers Association (TFA), Country Land and Business Association (CLA), Royal Institution of Chartered Surveyors (RICS) and National Farmers' Union (NFU).

Notice to Landlord/Tenant of Farm Business Tenancy

AGRICULTURAL TENANCIES ACT 1995

NOTICE PURSUANT TO SECTION 1(4)

TO: LANDLORD **The County of Herefordshire District Council
4 Commercial Road,
Hereford,
HR1 2BB**

TO: TENANT **[Tenant’s Name and Address]**

RE: THE HOLDING **[Holding Name and Address]**

COMMENCEMENT DATE:

I GIVE YOU NOTICE pursuant to the Agricultural Tenancies Act 1995 s1(4) that I intend that the tenancy of the Holding referred to above which we are proposing to enter into is to be and remain a Farm Business Tenancy within the meaning of the Agricultural Tenancies Act 1995 and that the character of the tenancy will at its beginning be primarily or wholly agricultural

Signed
(Landlord/Authorised Agent for Landlord)

Signed
(Tenant/Authorised Agent for Tenant)

Dated

DATED _____ 2005

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

LANDLORD

-and-

TENANT

**TENANCY AGREEMENT UNDER
AGRICULTURAL TENANCIES ACT 1995**

**relating to [Buchanan Trust/County of Herefordshire District
Council] Holding No. [Holding Number]**

at [Holding Name]

in the Parish of [Parish]

in the County of Herefordshire

AN AGREEMENT made the _____ day of

Two thousand and **B E T W E E N THE COUNTY OF**

HEREFORDSHIRE DISTRICT COUNCIL of Franklin House, 4 Commercial

Road, Hereford, HR1 2BB (hereinafter called "the Landlord" which expression

where the context admits includes the persons deriving title under it) of the

first part and **[Tenant's Name]** of **[Tenant's Address]** (hereinafter called

"The Tenant" which expression where the context admits includes the

persons deriving title under him) of the second part

WHEREBY IT IS AGREED as follows:-

Term and Rent

- I. **THE** Landlord lets to the Tenant **ALL THOSE** pieces of agricultural land with the dwellinghouse and buildings (if any) thereon containing **[Area in Acres]** acres (**[Area in Hectares]** hectares) or thereabouts situate in the Parish of **[Parish Name]** in the County of Herefordshire being the holding numbered **[Holding Number]** in the list of smallholdings kept by the Landlord (hereinafter called "the Holding") and more particularly described in the First Schedule hereto and delineated on Plan 1 and thereon edged (red) together with a right of way at all times by day and by night and for all purposes required for the permitted use of the Holding (in common with the Landlord and all persons who now have or may hereafter have a right of way) on foot with animals and vehicles over the road and tracks coloured (brown) Plan 1 (if any) **and EXCEPT AND RESERVED** to the Landlord as hereinafter mentioned from the **[Commencement Date e.g. 1st day of July two thousand and six]** (the commencement date) for a term of **[Term in Years]** YEARS at (i) a yearly rent of **[Rent in Words]**

(£[Rent in Figures]) [Set out payment Regime e.g. to be paid in advance by equal monthly payments] the first payment to be made on the date hereof for the period from the commencement date up to the **[Date of Second Payment of Rent]** and such sums to be payable within 28 days of the date due (ii) by way of additional rent sums due under Clause III (5). Any obligation to pay money refers to a sum exclusive of VAT and any VAT charged on it is payable in addition.

Exceptions
and
Reservations

II. THE exceptions and reservations to the Landlord hereinbefore referred to are as follows:-

Timber

(1) All timber and other trees pollards saplings stocks and underwood with power for the Landlord and all persons duly authorised by them to mark fell cut and remove the same doing as little damage as possible and paying to the Tenant reasonable compensation for any damage actually done

Minerals

(2) All mines and minerals quarries beds of stone gravel sand chalk flint peat and turf and clay and petroleum gases and related hydrocarbons (with liberty however for the Tenant to use such stones as are on the surface of the land for repairing the roads and paving on the Holding but not for sale) with power for the Landlord and all persons authorised by it to enter upon the Holding or any part thereof and to search for work and remove the same (with power to let down the surface and any buildings erected or to be erected thereon in the exercise of the foresaid liberties) making to the Tenant reasonable

compensation for damage thereby done to the surface buildings or crops and an abatement of rent in respect of surface land of which the Tenant may be deprived by reason of the exercise of such liberties as aforesaid

- | | | |
|--------------------------------------|-----|---|
| Water | (3) | All springs of water with power for the Landlord and any person authorised by it to take and carry away water therefrom by means of pipes or otherwise (provided that sufficient water be left for the Tenant for domestic and agricultural purposes) |
| Archaeological and similar artefacts | (4) | The right to the ownership of all archaeological and similar artefacts discovered at the Holding by the Tenant or any other person |
| Rights of Way | (5) | A right of way for the Landlord and all persons authorised by the Landlord at all times by day and by night and for all purposes on foot and with animals and vehicles over the roads and tracks coloured (blue) on Plan1. |
| Existing Wayleave | (6) | The benefit of all wayleave or similar agreements existing at the date of this lease and all rents and other monies due to the Landlord thereunder and the power to enter on the holding and carry out at the Landlord's cost anything required to be done thereunder by the Landlord the Landlord allowing the Tenant that proportion due to it for interference with cultivations |
| Creation of new Wayleaves | (7) | The right for the Landlord to grant any wayleave contract easement or licence to any public or local authority or public utility company or other company or persons with the right to authorise servants and agents of such parties with or without vehicles animals machinery and plant to enter upon the Holding and carry out their works (subject to the payment of reasonable compensation for damage provided a claim in writing is made by the Tenant to the Landlord within a reasonable time from the occurrence of the damage) together with the |

benefit of all such contracts agreements for easements or licences and all rents and any other payments reserved.

- (8) The right for the Landlord and all persons authorised by him with or without vehicles animals machinery and plant to enter on any part of the Holding at all reasonable times:
- (i) To inspect the state of repair of the Holding;
 - (ii) to inspect or to gain access to or carry out any works to any neighbouring land of the Landlord
 - (iii) for the purposes referred to in this Clause II
 - (iv) for all other reasonable purposes

Tenant's
covenants
Rent

III. THE Tenant HEREBY AGREES with the landlord as follows:-

- (1) To pay the rents hereby reserved at the times and in the manner aforesaid **TOGETHER WITH** by way of additional rent interest at a rate of 6% above the base rate of HSBC Bank plc for the time being in force on any instalment of rent or part thereof from time to time unpaid more than seven days after the same shall be due for payment

Rates and
Taxes

- (2) To pay all rates and taxes relating to the Holding except as provided in Clause IV(1)

Ingoing
Valuation

- (3) To pay to the Landlord when demanded:-
- (i) Any sum paid or payable by the Landlord to an outgoing tenant of the Holding (other than compensation for

disturbance) plus the reasonable cost of ascertaining the amount or

- (ii) the sum which would have been payable had there been an outgoing tenant holding on the terms of this lease

Repairs and
Redecoration

- (4) To repair and keep in repair all those items of repair maintenance renewal and redecoration and other matters as are expressed to be the responsibility of the Tenant pursuant to the Second Schedule hereto

Notice to
execute
repairs

- (5) That if the Tenant fails to comply with any of its obligations under this Agreement within six months of receiving from the Landlord a written request specifying the failure to comply the Landlord may enter on the Holding and perform the outstanding obligation and recover the full cost thereof (including without limitation administration and supervision costs) from the Tenant as additional rent

Good
husbandry

- (6) Personally to farm the Holding in accordance with the rules of good husbandry as provided by Section 11 of the Agriculture Act 1947 and to and in particular and without prejudice to the generality of those rules:-

- (i) to use the Holding primarily as an agricultural Holding
- (ii) Taking into account the character and situation of the Holding and all relevant circumstances the Tenant will maintain a reasonable standard of husbandry both in terms of the systems of farming and the quantity and quality of produce and at the same time will keep the Holding in a condition which will enable such a standard to be maintained in the future
- (iii) In considering if the standard of husbandry achieved by the

tenant is reasonable regard will be had to the extent to which:-

- a) the Tenant's farming practices keep the soil sub - soil and natural and other drainage systems in good condition
- b) grassland is being kept properly mown or grazed free from weeds and maintained at an appropriate level of fertility
- c) arable land is being cropped in such a way as to maintain the land clean and in an appropriate state of cultivation and fertility
- d) the Holding is properly stocked (where the system of farming practised requires the keeping of livestock) and an efficient standard of management of livestock is maintained including compliance with current farm animal welfare standards and legislation
- e) the necessary steps are being taken for the protection and preservation of crops which have been harvested or lifted or which are in the process of being harvested or lifted
- f) the necessary work of maintenance and repairs is being carried out
- g) the hedges and ditches shall be properly maintained and back fenced to protect them

against stock damage and shall be managed in such a way as to encourage "bottom" in the hedge SAVE THAT in the event that the Tenant wishes to lay a particular hedge then subject to the Tenant having obtained the Landlord's prior written consent the Tenant may leave that hedge for a period of 7 years before cutting and laying that hedge. After initial cutting and laying any hedge so laid must be and cut and laid at least once every 10 years.

- h) no more than 20% of the holding shall be in root crops at any one time.
- (iv) to keep down all vermin and spread and level all mole and ant hills
- (v) to consume upon the Holding all hay straw haulm root crops (other than root crops normally grown for sale) and forage crops grown on the holding
- (vi) not to sell off or remove from the Holding any hay straw haulm root crops (other than root crops normally grown for sale) or other forage crops produced on the Holding during the last year of the tenancy and not to sell off or remove any such produce at any time previously without returning and applying in husbandlike manner to the holding within six months of the sale of such produce good rotten farmyard or stable manure or artificial manures approved by the Landlord to the full equivalent manurial value of all such produce sold off or

removed from the Holding

- (vii) not at any time to sell off or remove from the Holding any manure made or produced thereon but to preserve cart and spread the same on the land in a husbandlike manner
- (viii) to keep and at the termination of the tenancy to leave the orchards well and sufficiently stocked and to prune and properly preserve and maintain all fruit trees and fruit bushes growing on the Holding
- (ix) not to grow any Genetically Modified crops
- (x) not to grow potatoes on the same land for two consecutive years without the Landlord's consent nor to grow more than 1/6 of the farm in potatoes without the Landlords consent
- (xi) not to pollute rivers water course or water supplies
- (xii) not to damage the Holding or neighbouring property as a result of using chemicals or burning stubble or weeds or otherwise
- (xiii) not to run a pig enterprise without the Landlord's consent in writing
- (xiv) not to keep more than 4 horses on the Holding at any time without the Landlord's consent in writing, which consent shall not be unreasonably withheld.
- (xv) to comply with the Cross Compliance regulations under the Single Farm Scheme and not to do anything to cause the holding or any part thereof to cease to be in a GAEC and to comply with any reasonable request by the Landlord to:-

- a) take such steps as are necessary to comply with all of the standards and requirements known as Cross Compliance enacted or to be enacted from time to time in order to administer and enforce the Regulations; and
- b) take such reasonable steps as are necessary to keep the holding in a GAEC as now defined or as defined from time to time in order to administer the Regulations.

Records (7) To keep and produce on demand to the Landlord true Records and allow the Landlord to inspect the Records for the purpose of rent reviews and solvency

Insurance of stock (8) To insure against loss or damage by fire to the full value thereof in an insurance office approved by the Landlord all live and dead stock on the holding and all harvested crops grown on the Holding for consumption thereon and whenever required to forward to the Landlord the policy of insurance and the receipt for the current premium thereon and in the event of the destruction by fire of any such harvested crops to return to the Holding the full equivalent manorial value of the crops destroyed in so far as the return thereof is required for the fulfilment by the Tenant of his responsibilities to farm the holding in accordance with the rules of good husbandry

Public Liability Insurance (9) To effect and maintain in some insurance office of good repute insurance cover against all third party and public liability risks in a sum of not less than three million five hundred thousand pounds and to

produce a copy of such policy to the Landlord on demand and notwithstanding the existence of such policy or otherwise to make good to the Landlord any loss suffered by the Landlord in respect of any third party or public liability claim against the Landlord arising out of the act or default of the Tenant or his employees agents or contractors

Permanent Pasture (10) Not to break up any land described as permanent pasture or orchard in the First Schedule hereto without the previous written consent of the Landlord

Trees (11) To preserve all timber and other trees pollards and saplings from bite of cattle or other injury and not to cut top lop or crop any of the timber timber-like trees or saplings likely to become timber now or hereafter growing upon the Holding nor hang gates on or drive nail or hook or otherwise injure any such tree or sapling SAVE THAT at the Tenant's request (which request shall not be made more frequently than once per anum) the Landlord agrees to identify any saplings growing on the Holding which the Landlord will permit to be excluded from the protection afforded by this clause

Buildings Alterations by the Tenant (12) (i) Not to alter remove or make additions to any building or other items of fixed equipment on the Holding or erect any new buildings or make any other improvements to the Holding without the Landlord's consent in writing SAVE THAT in the case of such buildings as are intended by the Tenant to be tenant's fixtures (which may be removed from the Holding by the Tenant at the end of the Term pursuant to section 8(1) Agricultural Tenancies Act 1995) and which are so notified to the Landlord, such consent shall not be unreasonably withheld.

- (ii) Not to make any application for planning permission for development within the meaning of Section 55 (1) of the Town and Country Planning Act 1990 in respect of the Holding or any part of it with out the Landlord's consent in writing, which consent shall not be unreasonably withheld.
- (iii) Within six months of the commencement of this Agreement the Tenant shall remove or repair the Tenant's Buildings to a reasonable standard by reference to the type nature and intended use of each such building
- (iv) In the event that the Tenant should fail to remove or repair the Tenant's Buildings to a reasonable standard within the time period provided in the preceding paragraph the Landlord shall thereafter be permitted to enter onto the holding for the purpose of repairing to a reasonable standard by reference to the type nature and intended use each such building of the Tenants Buildings as have not been so removed or repaired by the Tenant and the Landlord shall be entitled to recover the cost of any such repair or repairs from the Tenant SAVE THAT nothing in this paragraph shall cause the Landlord to become liable to execute any repair to the Tenant's Buildings other than at the Landlord's discretion.

Sub-Letting

- (13) (i) Personally to reside in the dwellinghouse (if any) on the Holding and to use the rest of the Holding for the business of agriculture
- (ii) Not to assign charge underlet or part with the possession of the Holding in any way whatsoever
- (iii) Not without the written consent of the Landlord to:
 - a) sell or let the right of grazing on the Holding ;

- b) take in thereon stock belonging to any other person
SAVE THAT the requirement for written consent imposed by subsections III (13)(a) and III (13)(b) shall not apply to tack sheep only taken onto pasture land on the Holding by the Tenant between 1 November and 15 March.
 - c) share crop, share farm or contract grow any crop
SAVE THAT such written consent (in respect of this subsection III (13)(iii) only) shall not be unreasonably withheld.
 - d) sub-let any part or parts of the holding
- 14) Not without the written consent of the Landlord (which shall not be unreasonably withheld) to:
- i) occupy or farm any agricultural land other than the Holding whether for the purpose of a trade or business or otherwise
 - ii) engage in any trade or business other than agriculture SAVE AS provided by paragraph III (15)(ii) of this Agreement.
 - iii) engage in any occupation or enter into any employment which might hinder the cultivation by the Tenant of the holding in accordance with the agreement provisions and conditions herein contained
- Other occupations or business
- Agriculture only
- (15) i) Not to use or permit to be used the Holding or any part thereof for the purpose of advertising camping, parking vehicles, siting caravans or mobile homes, fairs, entertainments, festivals, racing, rallies, competitions or for any purpose other than agriculture without the written consent of the Landlord
- ii) Not without the written consent of the Landlord to

carry out any diversification of activity on the Holding away from agriculture.

- Nuisance (16) Not to do or suffer to be done on the Holding anything which may be or become a statutory nuisance or a nuisance to the Landlord or the owners or occupiers of any adjoining land and in particular to comply with all codes of practice for the spreading of slurry on the Holding
- Cultivation in the last year of the tenancy (17) To cultivate the holding so that in the last year of the tenancy:-
- (i) The proportion of the land to be left as cropping shall be: **NIL**
 - (ii) There is no grazing of any seeds on the Holding after **1st November**
 - (iii) Not more than two-thirds and not less than one-third of the permanent pasture shall be made into hay or silage
- Hay, straw, etc. in the last year of tenancy (18) At the termination of the tenancy to leave upon the Holding all the farmyard manure made during the final year of the tenancy and all unconsumed hay straw roots and green crops (not being root or green crops normally grown for sale) all harvested crops being properly stacked and thatched or otherwise properly stored and protected
- Landlord's right of entry (19) To permit the Landlord and persons authorised by it to enter on the holding at all reasonable times to view the state and condition thereof or to perform any of the agreements on its part herein contained or in any other way to fulfil its responsibilities to manage the Holding in accordance with the rules of good estate management and to permit persons authorised by the Department of the Environment Food and

Rural Affairs or their successors to enter on and inspect the holding and carry out thereon any work which it may be lawful for them to carry out under the Agriculture Act 1947 or other statutory entitlement

Delivery of Possession

- (20) to do everything necessary including making any payments to preserve any licence for water used on the Holding
- (21) or as far as possible to prevent the creation of any third party rights or public rights of way over the Holding and to prevent trespassing
- (22) to immediately inform the Landlord of any notices received affecting the Holding and at the Landlords expense to respond to any notices under the Party Wall Act 1996 as the Landlord requires
- (23) On the determination of the tenancy peaceably and quietly to deliver up with vacant possession the Holding to the Landlord in good repair and tenantable condition and as otherwise required by this lease

Single Farm Payments Scheme and Set Aside

- (24) To supply a copy to the Landlord of all Single Farm Payment Scheme forms submitted during the term in respect of the Holding and all other returns or forms which the Tenant is required to make or complete pursuant to any enactment or as part of any application for any type of grant or subsidy.
- (25) Not without consent to take any steps to exchange the eligibility status of any land on the Holding designated as eligible under the Single Farm Payment Scheme or any other scheme of grant or subsidy affecting the holding.

subsidy effecting the holding.

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|--------------------|----|------|--|
| Single Farm Scheme | of | (26) | To comply with the terms of the Third Schedule to this Agreement in respect of the Single Farm Payments Scheme. |
| Notice changes | of | (27) | To notify the Landlord in writing of any charge made under the provisions of the Agricultural Credits Act 1928 immediately on the completion of any document evidencing such charge. |
| Death Tenant | of | (28) | If the Tenant dies during the Tenancy his executors or administrators or other person or persons in whom any interest in the Tenancy is vested immediately after his death and will within one month of his death give notice in writing to the Landlord of such death and its date. |
| | | (29) | Set-off - To permit to be deducted from any amounts of compensation due from the Landlord to the Tenant under this Agreement all sums due from the Tenant to the Landlord |
| Quotas | | (30) | Quotas - To comply with the terms of the Fourth Schedule in respect of Milk Quota and all quotas attaching to the Holding. |
| Cost of Lease | | (31) | To indemnify the Landlord in respect of any Stamp Duty Land Tax payable by the Landlord (if any) in respect of this Agreement. |

Landlord's Covenants

IV. THE Landlord HEREBY AGREES with the Tenant:-

- | | | |
|----------------------|-----|--|
| Tithe and Taxes | (1) | To pay Landlord's Property Tax Land Tax Tithe Redemption Annuity and Owners Drainage Rates (if any) |
| Repairs to Buildings | (2) | Without prejudice to the Tenant's responsibilities under this lease to execute all repairs and replacements to the parts of the dwellinghouse cottages and buildings in accordance with the liabilities of the Landlord as set out in the Second Schedule hereof |

- Insurance of Buildings (3) To keep the dwellinghouse cottages and other buildings insured to their full value against loss or damage by fire and to execute all works of repair or replacement to the dwellinghouse cottages and other buildings necessary to make good damage by fire being damage not due to the wilful act or negligence of the Tenant or any members of his household or his employees agents or servants
- Repairs of Tenant's Fixtures **V.**
 (1) The Landlord shall be under no liability to execute repairs or replacements to buildings or fixtures which are the property of the Tenant or to execute repairs or replacements rendered necessary by the wilful act or negligence of the Tenant or any members of his household or his employees agents or servants
- Obsolescence And subsidence (2) Nothing herein contained shall create any liability on the part of either the Landlord or the Tenant:-
 (i) To maintain repair or insure any item of fixed equipment which is obsolete and which the Landlord and the Tenant agree in writing that neither party shall be liable to maintain repair or insure
 (ii) To execute work if and so far as the execution of such work is rendered impossible (except at prohibitive or unreasonable expense) by reason of subsidence of any land or by the blocking of outfalls which are not under the control of either the Landlord or the Tenant
- No implied consent The Landlord does not by reason of anything in this lease consent to any

improvements within the meaning of Section 15 of the Agricultural Tenancies Act 1995

Custom **VII. NEITHER** party shall be entitled under the custom of the country to any compensation for any improvement

Resumption of Possession for Special Purposes **VIII.**
(1) IT shall be lawful for the Landlord at any time upon giving to the Tenant no less than Twelve months' notice but no more than twenty four months in writing to resume possession and determine the tenancy of the whole or any part of the holding for the purpose of building mining or industrial purposes or any other purposes not being the use of the land for agriculture

Re-entry (2) Without prejudice to any other rights of the Landlord, in any of the cases set out in this schedule the Landlord may at any time (and notwithstanding the waiver of any previous right of re-entry) re-enter the Holding whereupon this Tenancy will absolutely determine but without prejudice to any right of action of the Landlord in respect of any previous breach by the Tenant of this Agreement.

(i) If the whole or any part of the Rent or any other sums lawfully due from the Tenant to the Landlord remains unpaid 28 days after becoming due (in the case of the Basic Rent whether demanded or not).

(ii) If any of the Tenant's agreements in this Agreement are not performed or observed.

(iii) If the Tenant:

(a) proposes to or enters into any composition or arrangement with his creditors generally or any class

of his creditors; or

(b) is the subject of any judgment or order made against him which is not complied with within 7 days or is the subject of any execution, distress, sequestration or other process levied upon or enforced against any part of his undertaking, property, assets or revenue; or

(c) being a company:

i) is the subject of a petition presented or an order made or a resolution passed or analogous proceedings taken for appointing an administrator of or winding up such company; or

ii) an incumbrancer takes possession or exercises or attempts to exercise any power of sale or a receiver or administrative receiver is appointed of the whole or any part of the undertaking, property, assets or revenues of such company; or

iii) stops payment or agrees to declare a moratorium or becomes or is deemed to be insolvent or unable to pay its debts within the meaning of the Insolvency Act

1986 Section 123; or

- iv) without the prior Consent in writing of the Landlord ceases or threatens to cease to carry on its business in the normal course; or

(d) being an individual:

- i) is the subject of a bankruptcy petition or bankruptcy order; or
- ii) is the subject of an application or order or appointment under the Insolvency Act 1986 Section 253 or Section 273 or Section 286; or
- iii) is unable to pay or has no reasonable prospect of being able to pay his debts within the meaning of the Insolvency Act 1986 Sections 267 and 268.

- (iv) If any event occurs or proceedings are taken with respect to the Tenant in any jurisdiction to which the Tenant is subject which has an effect equivalent or similar to any of the events mentioned in this schedule.

Out-going
Valuation and
Set Off

IX. ON the expiration of the tenancy a valuation shall be made of the matters for which the Tenant is entitled to be paid under this Agreement or the Agricultural Tenancies Act 1995 or any statutory modification thereof and also of any monies due to the Landlord for rent or for breaches of agreement or otherwise in relation to the

Holding and the balance shall be paid by the one party to the other such valuation to be made either by a single valuer mutually agreed upon by the parties whose fees shall be paid in equal shares by them or by two valuers one to be appointed and paid by each party and any dispute between them shall be referred to arbitration under the said Act

Notices

- X.** **ALL** notices authorised or required to be given hereunder including notices to quit may be served in the manner provided by the Agricultural Tenancies Act 1995 with regard to notices under that Act
- XI.** **THE** tenancy hereby created is to be and to remain until its termination a farm business tenancy as defined by Section 1 of the Agricultural Tenancies Act 1995 and separate Notice as required by that Act has been given by each party to the other prior to the signing hereof
- XII** **THE** commencing rent will be reviewed on the third anniversary of the Commencement Date of the term and every three years thereafter for so long as the tenancy continues and will in respect of all other matters be subject to the statutory rent review provisions contained in Part II of the Agricultural Tenancies Act 1995
- XIII** **THIS** Agreement contains the whole agreement between the Landlord and the Tenant concerning the Holding.
- XIV** **THIS** tenancy is a new tenancy for the purposes of the Landlord and Tenant (Covenants) Act 1995.

XV **THE** parties do not intend that any term of this tenancy agreement should be enforceable by any third parties provided by the Contracts (Rights of Third Parties) Act 1999. Any third party right which exists or is available independently of that Act is preserved.

XVI **THIS** Agreement is not entered into pursuant to any prior agreement for tenancy.

XVII **IN** this Agreement except where specifically defined in the Fifth Schedule the words and phrases used have the meaning assigned to them by the Agricultural Tenancies Act 1995

AS WITNESS the hands of the parties hereto the day and year first before written

THE FIRST SCHEDULE

THE HOLDING

<u>O.S. Sheet No.</u>	<u>Land Parcel No.</u>	<u>Hectares</u>	<u>Acres</u>	<u>Description</u>
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THE SECOND SCHEDULE
Allocation of Repairing Responsibilities

The Dwelling

<u>Item</u>	<u>Tenant</u>	<u>Landlord</u>
Roofs	First £200 in any twelve month period	All other responsibility subject to the £200 tenants contribution

Chimneys	No responsibility except regular cleaning	All other responsibility
Exterior walls	No responsibility	All responsibility
Damp proof courses	No responsibility	All responsibility
Internal walls/ceilings	Repairs to all plaster (except in the case of lath and plaster ceilings) and tiling	All other responsibility
Floors	Floor tiles and coverings	All other responsibility
Staircases	No responsibility	All responsibility
Doors	Internal doors	External doors
Windows and Skylights	Glass and catches	All responsibility
Gutters and downpipes	All costs of repair and replacement	No responsibility
Kitchen and Bathroom fittings	All costs of repair and replacement	No responsibility
Electrical Installation	Repair and replacement of fittings and testing of all electrical appliances to comply with regulations	All responsibility except for repair replacement of fittings Responsible for wiring testing every 10 years
Water pipes	Repairs	Replacement when in need of renewal
Foul drainage systems	Cleaning and emptying and replacing covers	All other responsibility
Boilers, heating systems, cylinders, tanks, pumps, grates, cisterns and valves	Servicing and minor repairs fire bricks insulation	Replacement and major repairs
Internal decoration	All responsibility (every 7 years)	No responsibility

External decoration	All responsibility (every 5 years)	No responsibility
Security Systems	All responsibility	No responsibility
Cost of testing private water supplies	All responsibility	No responsibility
Garden fences and gates	All responsibility	No responsibility

Other Buildings and Fixed Equipment

<u>Item</u>	<u>Tenant</u>	<u>Landlord</u>
Roofs including roof painting and cladding	First £200 in any 12 month period	All other responsibility
Gutters and downpipes	All responsibility	No responsibility
Structural frames	No responsibility	All responsibility
Walls	No responsibility (except where damaged by the tenant or his stock)	All responsibility
Cladding	No responsibility (except where damaged by the tenant or his stock)	All responsibility
Barn painting	All responsibility every 5 years	No responsibility
Internal decoration	All responsibility	No responsibility
Floors and yards	All responsibility	No responsibility
Doors and Gates	All responsibility	No responsibility
Windows	Glass and catches	All other responsibility
Staircases	No responsibility	All responsibility
Electrical Installations	Repair and replacement of fittings and testing of all electrical appliances to comply with regulations	Periodic testing of wiring (min every 3 years)
Water supplies and fittings	Repairs and all responsibility above ground	Replacement when in need of renewal
Water troughs	All responsibility	No responsibility

Foul Drainage	Cleaning and unblocking	All other responsibility
Slurry Stores	All responsibility	No responsibility
Silage Pits	All responsibility	No responsibility
Effluent collection facilities	All responsibility	No responsibility
Fixtures and Fittings	All responsibility	No responsibility
Milking parlours and dairies	All responsibility apart from repairs to main structure	Repair and replacement of main structure
Yard walls, fences and gates	All responsibility	No responsibility
Roads and yards	All responsibility including provision of materials	No responsibility
Hedges	All responsibility	No responsibility
Boundary fences and gates	All responsibility	No responsibility
Internal fences and gates	All responsibility	No responsibility
Bridges	No responsibility	All responsibility
Culverts, ditches and field drains	All responsibility	No responsibility

THE THIRD SCHEDULE

Single Farm Payment

.1 The Tenant hereby covenants with the Landlord:-

1.1 During the Term to claim payment upon the established Holding Entitlements and Holding Set aside Entitlements in accordance with the Regulations and any rules imposed by DEFRA and the RPA in such a way that the Holding Entitlements and the Holding Set aside Entitlements or any part thereof are not lost or charged or whereby

they are removed from the Tenant whether permanently or temporarily.

- 1.2 To use his best endeavours to obtain for the Holding any new or further entitlements which become available under the Regulations whether existing at or introduced after the commencement of this tenancy
- 1.3 At all times during the Term to carry out all obligations imposed on the Tenant as occupier or producer with regard to all of the requirements of the Regulations and any rules imposed by DEFRA and the RPA
- 1.4 Forthwith to furnish the Landlord (in writing if so required) with all information which the Landlord may reasonably request concerning the Holding Entitlements and the Holding Set-aside Entitlements or concerning other farming activities of the Tenant which may affect or tend to affect the Holding Entitlements and the Set aside Entitlements whether such farming activities are carried out by the Tenant directly or indirectly and whether they relate to the holding or to other land
- 1.5 Prior to submitting any forms to DEFRA and the RPA in any year to agree with the Landlord the information required by the forms and the contents thereof and to obtain the Landlord's consent to that information and to the contents of the forms
- 1.6 Not to dispose of transfer lend lease charge or otherwise deal with the whole or any part of the Holding Entitlements and the Holding Set aside Entitlements as to result in the Holding Entitlements and the Holding Set aside Entitlements lapsing or reducing in number or value during the Term or the Holding Entitlements and the Holding Set aside Entitlements being transferred off the Holding or otherwise becoming unavailable for use in full on the Holding on the termination of the Tenancy

- 1.6.1 Not without the written consent of the Landlord to make any application to the RPA for an allocation of Entitlements or Set Aside Entitlements from the National Reserve and the Landlord shall be entitled to withhold such consent if any allocation of such entitlements would adversely affect any of the provisions of this clause
- 1.6.2 Not by any direct or indirect act or omission in respect of any land or property not included in the Holding to allow the Holding Entitlements and the Holding Set aside Entitlements to pass to any other person whatsoever or become claimable in respect of land not comprised in the Holding
- 1.6.3 Not to make or permit anyone claiming on his behalf or through him to make any claim either during or at or following termination of the Tenancy which may result in the Holding Entitlements and the Holding Set aside Entitlements or any part thereof ceasing to belong to or be available to the Landlord and if as a result of any such claim the Holding Entitlements and the Holding Set aside Entitlements or any part thereof are lost to the Landlord to indemnify the Landlord against all losses which the Landlord suffers thereby including (but not necessarily limited to) all costs and expenses incurred in the acquisition of replacement entitlements which is comparable in all respects to that lost
- 1.6.4 On or after quitting the Holding to take all such steps and do all such acts as may be required to procure the transfer of the Holding Entitlements and the Holding Set aside Entitlements to the Landlord or such person

as the Landlord nominates in writing such transfer shall be made without consideration unless one is deemed to be necessary in which case the consideration shall be one pound.

1.6.5 Insofar as they remain to be observed and performed and are capable of taking effect after the termination of the Term howsoever determined the provisions of this clause shall remain in full force and effect notwithstanding the termination

1.6.6 During the final year of the Tenancy to obtain the Landlord's consent for all matters concerning the management of the Holding Entitlements and the Set aside Entitlements to include Cross Compliance and claiming the single payment and effecting the transfer of the Holding Entitlements and the Set aside Entitlements as the Landlord may direct.

THE FOURTH SCHEDULE

Milk Quota

1.1 The Tenant's agreements

The Tenant agrees:

1.1.1 to farm the Holding throughout the Term and to comply with any Enactment and any direction made by the Landlord so as to ensure that the entirety of the Milk Quota continues to be attached to the Holding (and to no other land) to the intent that it will be transferable to the Landlord or at his direction on the termination of this Agreement;

1.1.2 not to charge or lease the Milk Quota;

- 1.1.3 not to do nor omit to do anything which results or may result in all or part of the Milk Quota being reduced, lost, charged or removed from the Holding whether permanently or temporarily or otherwise being unavailable to a future occupier of the Holding;
- 1.1.4 to co-operate with the Landlord on the termination of the Term in signing and lodging (in accordance with all time limits that may be applicable) all necessary documents including any required by any Authority to effect the transfer of the Milk Quota to the Landlord or as the Landlord may direct;
- 1.1.5 that subject to paragraph 2 of this schedule, in the event of the Milk Quota or any part of it not being transferred to the Landlord or at his direction upon the change of occupation consequent upon termination of this Agreement, the Tenant will compensate the Landlord for all lawfully recoverable losses thereby sustained including the cost to the Landlord of acquiring milk quota of comparable butterfat base and usage to the Milk Quota or any such part;
- 1.1.6 that, if quantification of the whole or any part of the loss suffered by the Landlord in circumstances referred to in paragraph 1.5 is impossible, the sum payable to the Landlord will be a sum equal to any reduction in the value of the Holding consequent upon such loss.

1.2 Reductions

- 1.2.1 The obligations contained in paragraph 1.1 of this schedule will not apply in so far as the Milk Quota has been subject to reductions imposed by any Authority

unless such reductions are cancelled or reinstated in part and, if cancelled or reinstated in part, the obligations will apply to the extent of such partial cancellation or reinstatement.

1.2.2 If any such reductions referable to any period after the expiry of the Term result in the payment of any compensation to the Tenant or to any partnership or company of which the Tenant is a member or officer in which he has or had any interest (irrespective of when the same is paid) such compensation will be treated as belonging to the Landlord and will be paid to the Landlord without deduction immediately upon receipt.

1.3 Production

During the period from 31 March in the last 12 months of the Term to the end of the Term the Tenant will not during any month produce any greater quantity of milk than one twelfth of the total production entitlement permitted by any Authority for that 12 month period (or as specified in any milk production monthly profile produced by any Authority whichever be the greater).

1.4 Prospective apportionment

The Tenant will at any time during the Term at the direction of the Landlord request a prospective apportionment of the Milk Quota in relation to the Holding pursuant to the Dairy Produce Quota Regulations 2002/475 Regulation 10 and Schedule 2 and will use his best endeavours to obtain the consent of all interested parties (as described by the Dairy Produce Quotas Regulations 1994) to the prospective apportionment.

1.5 Landlord's consent

The Landlord consents to the Tenant using the Holding or any part of it for the purpose of milk production during the Term.

2 Quota

The Tenant agrees:

- 2.1 to preserve the benefit of any Quota transferred to or made available to the Tenant at the commencement of the Term or subsequently as the occupier for the time being of the Holding;
- 2.2 on termination of the Term to transfer the benefit of the Quota or make the Quota available to the Landlord or to any incoming occupier (as appropriate).

THE FIFTH SCHEDULE

Definitions and interpretation

1 Definitions

- 1.2 **'Arbitrator'** means an arbitrator appointed to act in accordance with the Arbitration Acts 1950–1979.
- 1.3 **'Authority'** means any statutory, public, local or other authority or any court of law or any government department or any of their duly authorised officers.
- 1.4 **'Consent'** means an approval, permission, authority, licence or other relevant form of approval given by the Landlord in writing.
- 1.5 **'Cross Compliance'** means the cross compliance requirements established by the Single Farm Scheme.
- 1.6 **'DEFRA'** means the Department for Environment Food and Rural Affairs or any successor Department.
- 1.7 **'Enactment'** means:
 - 1.7.1 any Act of Parliament or
 - 1.7.2 any European Community Legislation or decree or other supranational legislation or decree having effect of law in the United Kingdom.

- 1.9 **'GAEC'** means 'Good Agricultural and Environmental Condition' as now defined or as to be defined from time to time, in order to enforce and administer the Regulations.
- 1.10 **'Historical Entitlements'** means that element of the Holding Entitlements established by reference to the claimants historical subsidy claims in during the period 2000 to 2002 (unless different) and which will be payable on a decreasing proportion up until the end of the 2012 growing season
- 1.11 **'Holding Entitlements'** shall mean the single payment entitlements or such other entitlement to financial support which may be established under the Regulations by the Tenant and which is available to be established by or otherwise allocated or made available to the Tenant by reference to the area of the Holding subject to this tenancy agreement and no other land and by reason of the occupation of the tenant. The Landlord and the Tenant understand that the Holding Entitlements are allocated part in respect of the Historical Entitlements and part in respect of the Regional Area Payments. Both payments will be joined together to form one payment over the claimants total holding area
- 1.12 **'Holding Set aside Entitlements'** shall have the same meaning as in Article 53.2 of Council Regulations (EC) No. 1782/2003.
- 1.13 **'Landlord'** includes any successor to the Landlord named in the Particulars.
- 1.13 **'Landlord's Buildings'** means the buildings on the holding shown outlined red on Plan 2
- 1.14 **'Legal Obligation'** means any obligation from time to time created by any Enactment or Authority that relates to the Holding or its use and includes without limitation obligations imposed as a condition of any Necessary Consents.
- 1.15 **'Milk Quota'** means the **[Number]** litres of milk quota provided by the Landlord to the Tenant
- 1.16 **'Necessary Consents'** means planning permission and all other consents, licences, permissions and approvals whether of a public or private nature which are relevant in the context.
- 1.17 **'Outgoings'** means all rates, taxes, charges, duties, assessments, impositions and outgoing of any sort which are at any time during the Term payable whether by the owner or occupier of property and includes charges for electricity, gas, water, sewerage, telecommunications and other services (but not any tax payable by the Landlord on the Rent or on any dealing with the Landlord's interest in the Holding).
- 1.18 **'Plan 1'** means the plan annexed to this Agreement and marked 'Plan 1'.
- 1.19 **'Plan 2'** means the plan annexed to this Agreement and marked 'Plan 2'.

- 1.20 **'Quota'** means all quota or other right of production or right to payment or subsidy whether under any scheme for the production or marketing of agricultural produce or otherwise or any right of or restriction on production or the use of the Holding for farming or any licence or consent required for such production or use (other than Milk Quota or Holdings Entitlements) which is now or at any time in the future may be allocated, transferred or made available to the Tenant in respect of the Holding.
- 1.21 **'Records'** means true accounts and vouchers of all produce sold off or removed from the Holding and of all manures and feeding stuffs purchased and applied to the Holding and of all homegrown produce consumed on the Holding and animal movement records.
- 1.22 **'Regional Area Payments'** means the standard area payment element of the Holding Entitlements which will be paid on an increasing proportion and which will replace Historical Entitlements by the end of 2012.
- 1.22 **'Regulations'** means Council Regulation (EC) No. 1782/2003 establishing the common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers of certain crops of 29th September 2003 and Commission Regulation (EC) No. 795/2004 of 21st April 2004 laying down detailed rules for the implementation of the single payment scheme provided for in Council Regulation (EC) No. 1782/2003 and Commission Regulation (EC) No. 796/2004 of 21st April 2004 laying down detailed rules for the implementation of cross-compliance, modulation and the integrated administration and control system provided for in Council Regulation (EC) No. 1782/2003 and any Regulations amending or substituting for those Regulations.
- 1.23 **'Rent'** means all sums reserved as rent by this Agreement.
- 1.24 **'Rent Days'** means the dates set out in the Particulars for payment of Rent in each year of the Term.
- 1.25 **'RPA'** means the Rural Payments Agency or any successor body carrying out its functions
- 1.26 **'Single Farm Scheme'** means the scheme established by the Regulations
- 1.27 **'Tenancy'** means the tenancy granted by this Agreement.
- 1.28 **'Tenant'** includes any successor to the tenant.
- 1.29 **'Tenant's Buildings'** means the buildings shown edged in blue on Plan 2
- 1.30 **'Term'** means the term of the tenancy granted by this Agreement
- 1.31 **'VAT'** means Value Added Tax and includes any future tax of a like nature.

1.32 '1995 Act' means the Agricultural Tenancies Act 1995.

2 Interpretation

In this Agreement unless the context otherwise requires:

- 2.1 words importing any gender include every gender;
- 2.2 words importing the singular number include the plural number and vice versa;
- 2.3 words importing persons include firms companies and corporations and vice versa;
- 2.4 references to numbered clauses and schedules are references to the relevant clause in or schedule to this Agreement;
- 2.5 reference in any schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule;
- 2.6 where any obligation is undertaken by two or more persons jointly they are to be jointly and severally liable in respect of that obligation;
- 2.7 any obligation on any party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
- 2.8 any party who agrees to do something will be deemed to fulfil that obligation if that party procures that it is done;
- 2.9 the headings to the clauses, schedules and paragraphs of this Agreement will not affect the interpretation;
- 2.10 any sum payable by one party to the other will be exclusive of VAT which will where it is chargeable be paid in addition to the sum in question at the time when the sum in question is due to be paid;
- 2.11 any relevant perpetuity period will be 80 years from the date of this Agreement;
- 2.12 any reference to an Enactment includes reference to that Enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that Enactment.

**[THE COUNTY OF HEREFORDSHIRE
DISTRICT COUNCIL to seal (if over 3 years)]**

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Witness

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Occupation

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Address

SIGNED as a Deed by the Tenant in the presence of

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Tenant

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Witness

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Occupation

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Address

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