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To: The Chair and Members  
of the Farms Estate  
Committee

County Hall  
Topsham Road  
Exeter  
Devon  
EX2 4QD

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Date: 27 November 2020

Contact: Wendy Simpson, 01392 384383  
Email: [wendy.simpson@devon.gov.uk](mailto:wendy.simpson@devon.gov.uk)

### **FARMS ESTATE COMMITTEE**

Monday, 7th December, 2020

A meeting of the Farms Estate Committee is to be held as a Virtual meeting on the above date at 2.15 pm to consider the matters below. For the joining instructions please contact the Clerk for further details on attendance and/or public participation.

Phil Norrey  
Chief Executive

### **A G E N D A**

#### **PART I - OPEN COMMITTEE**

1 Apologies for Absence

2 Minutes

Minutes of the meeting held on 21 September 2020 (previously circulated).

3 Items Requiring Urgent Attention

Items which in the opinion of the Chairman should be considered at the meeting as matters of urgency.

#### **MATTERS FOR DECISION**

4 Revenue Monitoring (Month 7) 2020/21 (Pages 1 - 4)

Report of the County Treasurer (CT/20/104), attached.

*Electoral Divisions(s): All Divisions*

- 5 Capital Monitoring (Month 7) 2020/21 (Pages 5 - 8)  
Report of the County Treasurer (CT/20/106), attached.

*Electoral Divisions(s): All Divisions*

- 6 The County Farms Estate - Management and Restructuring issues (Pages 9 - 12)  
Report of the Head of Digital Transformation and Business Support (BSS/20/06),  
attached

*Electoral Divisions(s): Dawlish*

- 7 The County Farms Estate - Agriculture Act 2020 (Pages 13 - 22)  
Report of the Head of Digital Transformation and Business Support (BSS/20/07),  
attached.

*Electoral Divisions(s): All Divisions*

**PART II - ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF PRESS AND PUBLIC**

None

*Members are reminded that Part II Reports contain exempt information and should therefore be treated accordingly. They should not be disclosed or passed on to any other person(s). They need to be disposed of carefully and should be returned to the Democratic Services Officer at the conclusion of the meeting for disposal.*

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### **Induction Loop available**



## The County Farms Estate

### Revenue Monitoring (Month 7) 2020/21

#### Report of the County Treasurer

#### **1 Revenue Monitoring for the period 1 April 2020 to 31 October 2020**

- 1.1 The Revenue Budget presented to Corporate Infrastructure and Regulatory Services Scrutiny Committee on 28 January 2020 and approved at County Council on 20 February 2020 included a target surplus of £464,000 for the County Farms Estate.
- 1.2 Appendix B provides details of income and expenditure to date.
- 1.3 As at month 7 the total net expenditure shown in the summary accounts amounts to just £49,266. However, this figure is generated after outstanding prior year accruals of £81,980. In year expenditure is therefore £131,246.
- 1.4 Almost half the income (£548,931) has been invoiced so far this year. The majority of the remainder will be invoiced at the end of month 12. Year-end forecast outturn income is slightly down on target.
- 1.5 Three Tenant Right Valuation accruals are still not yet capable of being released as the end of tenancy valuations are not concluded.
- 1.6 £17,152 worth of unforeseen repair works has been ordered and paid in 2020/21. In addition, a further £8,856 of unforeseen works has been ordered but not invoiced. Total unforeseen maintenance expenditure and commitment at month 7 is therefore £26,008. The year-end forecast is likely to be reduced to £60,000 to fund some of the additional programme work already committed and being committed.
- 1.7 The revenue funded maintenance programme has been set with both the budget and forecast of £210,000 fully allocated to proposed works based on initial cost estimates provided for each scheme. £11,583 worth of programmed works has been ordered and paid in 2020/21. A further £219,777 worth of works had been ordered at month 7 but not yet completed. Total programmed maintenance expenditure and commitment at month 7 is therefore £231,360. Year-end forecast spend may reach £300,000.
- 1.8 At month 7 £1,788 worth of works to redundant buildings, asbestos removal and health and safety improvements had been ordered and

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paid in 2020/21. Further work is currently being procured. The year-end forecast is likely to be reduced to £11,000 to fund some of the additional programme work already committed and being committed.

- 1.9 Approximately £2,127 worth of testing and inspection works (service term contracts for private water supplies, boilers, fixed wiring systems, sewage treatment plants, radon fans etc) had been paid at month 7 and a further £12,540 worth of works ordered. Year-end forecast spend is likely to be in the region of £15,000.
- 1.10 The programmed tree surveys have been carried out and all or any recommended tree surgery work has now been ordered. It is anticipated the ground maintenance budget will be fully committed.
- 1.11 10 quinquennial farm condition surveys have been commissioned. It is anticipated the building maintenance surveys budget will be fully committed.
- 1.12 It is currently anticipated that the forecast year-end level of income and expenditure will be achieved, and the target surplus delivered, albeit there may be some fluctuations within income and expenditure items.

## 2 **Options/Alternatives**

- 2.1 Alternative options have been considered and discounted as they are believed to either be contrary to current Estate policy and/or not in the best financial interests of the Estate.

## 3 **Consultations/Representations/Technical Data**

- 3.1 The views and opinions of the Devon Federation of Young Farmers Clubs and the Estate Tenants Association will be presented by the two co-opted members to the committee.
- 3.2 No other parties have been consulted and no other representations for or against the proposal have been received.
- 3.3 The technical data is believed to be true and accurate.

## 4 **Considerations**

- 4.1 The Author is not aware of any financial, sustainability, carbon impact, equality, legal, risk management or public health issues arising from this report.

## 5 **Summary/Conclusions/Reasons for Recommendations**

- 5.1 The Author has prepared this report in accordance with the findings of the County Farms Estate Strategic Review (April 2010).

*Mary Davis – County Treasurer*

Electoral Divisions: ALL

Local Government Act 1972: List of Background Papers

None

Who to contact for enquiries:

Name: Dan Meek, Director of Property Management, NPS South West Ltd, Venture House, One Capital Court, Bittern Road, Sowton Industrial Estate, Exeter, EX2 7FW

Contact: 01392 351066 or [dan.meek@nps.co.uk](mailto:dan.meek@nps.co.uk)

Name: Lisa Beynon, Head Accountant for Corporate Services, County Treasurer's, County Hall, Exeter

Contact: 01392 383000 or [lisa.beynon@devon.gov.uk](mailto:lisa.beynon@devon.gov.uk)

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APPENDIX B

## COUNTY FARMS ESTATE - FINANCIAL REPORTS FINANCIAL STATEMENT - (MONTH 7) 2020-21

<u>INCOME</u>	* YEAR	ANNUAL	MONTH 5	CURRENT
	TO DATE	TARGET	FORECAST	FORECAST
	£'000	£'000	£'000	£'000
Rent	(549)	(1,124)	(1,124)	(1,110)
Other	(19)	(40)	(40)	(40)
<b>TOTAL INCOME</b>	<b>(568)</b>	<b>(1,164)</b>	<b>(1,164)</b>	<b>(1,150)</b>
 <u>EXPENDITURE</u>				
<u>STATUTORY COSTS</u>				
Tenant Right Valuation	(28)	20	20	20
<b>SUB - TOTAL</b>	<b>(28)</b>	<b>20</b>	<b>20</b>	<b>20</b>
 <u>PREMISES COSTS</u>				
Building Maintenance - Unforeseen	16	100	100	60
Building Maintenance - Programmed	1	210	210	300
Building Maintenance - Surveys	0	10	10	10
Building Maintenance - STC	2	20	20	15
Building Maintenance - Other (incl. Land Agents Initiatives, Redundant Buildings, Asbestos and Health and Safety)	(34)	61	61	11
Grounds Maintenance	0	10	10	10
Rents and Other Landlord Charges	6	14	14	11
Rates, Electricity and Water Charges	5	6	6	8
<b>SUB - TOTAL</b>	<b>(4)</b>	<b>431</b>	<b>431</b>	<b>425</b>
 <u>SUPPLIES &amp; SERVICES</u>				
Insurance	0	0	0	0
Adverts	0	2	2	2
NPS Fees	83	230	230	224
Legal Fees	0	4	4	4
Professional Fees	(2)	6	6	6
Other Fees and Charges (DFYF, SHLAA, GPDO)	0	7	7	5
<b>SUB - TOTAL</b>	<b>81</b>	<b>249</b>	<b>249</b>	<b>241</b>
 <b>TOTAL EXPENDITURE</b>	 <b>49</b>	 <b>700</b>	 <b>700</b>	 <b>686</b>
 <b>NET OPERATIONAL (SURPLUS)</b>	 <b>(519)</b>	 <b>(464)</b>	 <b>(464)</b>	 <b>(464)</b>
 Revenue funded Restructuring (BM other)	 0	 0	 0	 0
<b>SUB - TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

\* includes accruals from previous year



## The County Farms Estate

### Capital Monitoring (month 7) 2020/21.

#### Report of the County Treasurer

#### 1 Capital Monitoring for the period 1 April 2020 to 31 October 2020

- 1.1 The Capital budget presented to Corporate Infrastructure and Regulatory Services Scrutiny Committee on 28 January 2020 and approved at County Council on 20 February 2020 included schemes totalling £600,000.
- 1.2 There was an 'overspend' of £30,888 in 2019/20 thus the balance of capital available to spend in 2020/21 amounts to £569,112.
- 1.3 As at month 7 there has been a material increase in expenditure since month 5 although the Covid-19 lockdown restrictions imposed at the beginning of the financial year has undoubtedly put the Estate well behind programme. NPS building surveyors and engineers are working hard to make up for the lost time.
- 1.4 To fully fund the decent homes improvements programme without delaying any works, it is proposed that £600,000 will be brought forward from the 2021/22 Estates Capital Programme to 2020/21. If approved, the revised 2020/21 budget will be £1,169,112.

#### 2. Nitrate Vulnerable Zone Compliance

- 2.1 Currently one new tin tank slurry store is being constructed. Contractors are still on site with works due to complete by early December. The recent adverse weather and other unforeseen events has put the contractor behind programme. In addition, retention monies on previously completed stores remain to be paid.
- 2.2 Actual spend to date stands at £140,640 and forecast spend to year-end stands at £306,596 on NVZ compliant schemes for 2020/21.

#### 3. Compensation Payments (Tenants Improvements, etc..)

- 3.1 Forecast spend currently stands at nil, but this excludes any liability that may yet fall due in year or at 25 March 2021.

#### 4. Enhancements and Improvements

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- 4.1 Actual spend to date stands at £174,935 and forecast spend to year-end stands at £862,516. The 2020/21 capital programme is behind schedule due to movement and working restrictions imposed through Covid-19 emergency powers, but the programme is now being developed at pace with one scheme completed, one scheme on site, four schemes out to tender and nine schemes being designed and tendered with a view to works completing before 31 March 2021.

## **5. Land Acquisitions**

- 5.1 Currently one land acquisition opportunity is being progressed in South Molton for which additional capital funding has been approved. This will help towards replenishing the Estate following the recent sale of some very high value land for residential development.

## **6. Options/Alternatives**

- 6.1 Alternative options have been considered and discounted as they are neither practical nor in the financial best interests of the Authority.

## **7. Consultations/Representations/Technical Data**

- 7.1 The views and opinions of the Devon Federation of Young Farmers Clubs and the Estate Tenants Association will be presented by the two co-opted members to the committee.
- 7.2 No other parties have been consulted and no other representations for or against the proposal have been received.
- 7.3 The technical data is believed to be true and accurate.

## **8. Considerations**

- 8.1 The Author is not aware of any financial, sustainability, carbon impact, equality, legal, risk management or public health issues arising from this report.

## **9. Summary/Conclusions/Reasons for Recommendations**

- 9.1 The Author has prepared this report in accordance with the Councils capital funding procedures and guidelines.

*Mary Davis – County Treasurer*

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Electoral Divisions: ALL

Local Government Act 1972: List of Background Papers

None

Who to contact for enquiries:

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Contact: 01392 351066 or [dan.meek@nps.co.uk](mailto:dan.meek@nps.co.uk)

Name: Lisa Beynon, Head Accountant for Corporate Services, County  
Treasurer's, County Hall, Exeter

Contact: 01392 383000 or [lisa.beynon@devon.gov.uk](mailto:lisa.beynon@devon.gov.uk)



## The County Farms Estate Management and Restructuring

### Report of the Head of Digital Transformation and Business Support

*Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.*

#### Recommendation(s):

That the Committee approves the recommendations as set out in the opening paragraph of section 1 of this report.

#### 1.0 Part Duckaller Farm, Dawlish

#### 1.0 Land at Port Road, Dawlish

1.1 It is recommended that a notice to quit be served bringing the current annual periodic tenancy to an end at 25 March 2022 and that the current tenant, Mr KP be offered first refusal of a further 3 year Farm Business Tenancy of the 1.13 acres or thereabouts of land at Duckaller Farm, Dawlish commencing 25 March 2022, subject to terms being agreed.

1.2 In 2013, 0.46 hectares (1.13 acres) or thereabouts of bare land in Port Road, Dawlish was amalgamated with Duckaller Farm, Dawlish by way of a separate Farm Business Tenancy. Committee resolution FE/61(a)(ii) of 22 November 2011 refers. The resolution stated:

*'that the tenant of Duckaller Farm, Dawlish be offered a 3 year Farm Business Tenancy of the 1.46 acres or thereabouts of bare land adjacent to 9 Port Road, Dawlish commencing 25 March 2013 and terminating 25 March 2016, subject to terms being agreed'.*

1.3 Then in 2017 members resolved under minute ref: FE/13(e):

*'that a notice to quit be served bringing the current annual periodic tenancy to an end at 25 March 2019 and that the current tenant, Mr KP be offered first refusal of a further 3 year Farm Business Tenancy of the 1.13 acres or thereabouts of land at Duckaller Farm, Dawlish commencing 25 March 2019, subject to terms being agreed'.*

1.4 The Farm Business Tenancy referred to above has been allowed to run from year to year following the passing of the term date. A Notice to Quit could be served to bring the current lease to an end at 25 March 2022.

1.5 The current tenant has proven to be a good local custodian of the land paying a fair market rent.

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## **2.0 Options/Alternatives**

2.1 Alternative options have been considered and discounted as they are believed to either be contrary to current Estate policy and/or not in the best financial interests of the Estate.

## **3.0 Consultations/Representations/Technical Data**

3.1 The views and opinions of the Devon Federation of Young Farmers Clubs and the Estate Tenants Association will be presented by the two co-opted members to the committee.

3.2 No other parties have been consulted and no other representations for or against the proposal have been received

3.3 The technical data is believed to be true and accurate.

## **4.0 Financial Considerations**

4.1 The Author is not aware of any financial issues arising from this report.

## **5.0 Environmental Impact Considerations (including Climate Change)**

5.1 The Author is not aware of any environmental impact (including climate change) issues arising from this report.

## **6.0 Equality Considerations**

6.1 The Author is not aware of any equality issues arising from this report.

## **7.0 Legal Considerations**

7.1 The Author is not aware of any legal issues arising from this report.

## **8.0 Risk Management Considerations**

8.1 The Author is not aware of any obvious risks to manage.

## **9.0 Public Health Impact**

9.1 The Author is not aware of any public health impact.

## **10.0 Summary/Conclusions/Reasons for Recommendations**

10.1 The Author has prepared this report in accordance with the findings of the County Farms Estate Strategic Review (April 2010)

Rob Parkhouse, Head of Digital Transformation and Business Support

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Local Government Act 1972: List of Background Papers:

None

Who to contact for enquiries:

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## **The County Farms Estate Agriculture Act 2020**

### **Report of the Head of Digital Transformation and Business Support**

*Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.*

#### **Recommendation(s):**

That the Committee notes the report and:

- (a) Welcomes further reports at future meetings to review the detailed proposals set out in the pending DEFRA Agricultural Transition Plan.
- (b) Asks the Senior Land Agent to write to all '86 Act 'retirement' tenants bringing to their attention the change to the Case A retirement age.
- (c) Welcomes the proposed new entrant support scheme and asks the Chairman of this Committee to write to DEFRA strongly encouraging them to focus support on Local Authority County Farms Estates Services whose raison d'être is to provide new entrant opportunities and have a long and successful track record of doing so.

#### **1.0 Background**

- 1.1 It has been almost a year in the making but the Agriculture Act 2020 passed into law on 11 November. The Act heralds a new future for the agricultural sector and landlord/tenant relationships.
- 1.2 The UK transition period with the EU ends on 31 December 2020 and with it our membership of the EU customs union and single market. From 1 January 2021, the UK will need to put in place its own rules and regulations to fill the void left by EU law. Key to the future of farming in the UK is the Agriculture Act 2020.
- 1.3 The Act sets out the UK's approach to farming, replacing the Common Agricultural Policy (CAP) that the UK has been part of since 1973, and provides the legal framework for the establishment of a new system of agricultural assistance for farmers and land managers.
- 1.4 The underlying objectives of the legislation are to drive competitiveness, increase productivity and the use of technology, and generate fairer returns. The Act does, however, provide mainly "enabling" legislation rather than

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specific details, stating that the government “may” do certain things, rather than “will” do certain things, although the accompanying briefing notes confirm the government’s intentions, which are broadly:

- To become more collaborative in developing a new support system
- To become less bureaucratic
- To promote the important contribution of farmers to the environment and food

1.5 Later this month Defra is publishing an **Agricultural Transition Plan** document which will set out more detailed plans for the first few years of the transition period including the phasing out of the Basic Payment Scheme (BPS) and phasing in of new funding schemes.

1.6 Defra secretary George Eustice said: “Our landmark Agriculture Act will transform the way we support farmers.

*“The funds released as a result of the phasing out of the legacy BPS will be reinvested into a rollout of our future farming policy, which will be centred around support aimed at incentivising sustainable farming practices, creating habitats for nature recovery and supporting the establishment of new woodland and other ecosystem services to help tackle challenges like climate change.*

*“We will support farmers in reducing their costs and improving their profitability, to help those who want to retire or leave the industry to do so with dignity, and to create new opportunities and support for new entrants coming into the industry.”*

## **2.0 Replacement of the Basic Payment Scheme (BPS)**

2.1. At present, UK agriculture receives around £3 billion in support from the EU every year via the Common Agricultural Policy (CAP).

2.2 This consists of two pillars. Pillar 1 provides Direct Payments to farmers via the Basic Payment Scheme (BPS) and ‘greening’ based on the amount of land they manage. Pillar 2 schemes deliver rural development, environmental outcomes, farming productivity and socio-economic outcomes. The majority of the budget (88%) is spent on Pillar 1 payments and, of this, the BPS accounts for 70%.

2.3 The Agriculture Act establishes a new agricultural system based on the principle of ‘public money for public goods’. It will provide powers to give financial assistance under a new system where payments may encompass environmental protection for soils, water and air, public access to the countryside, measures to safeguard livestock and plants, and other environmental objectives needed in order to deliver the 25 year Environment Plan and net zero emissions by 2050. It will also have the ability to establish

an enforcement and inspection regime including powers to set out terms and conditions of future financial assistance.

- 2.4 The Pillar 1 payments will be phased out over a period of seven years, known as the **Agricultural Transition Period**. This period runs from 2021 to 2027 and will operate on a banding system with the largest reductions being applied to the highest payment band. The reduction percentages for 2021 are shown in the table below:

<b>Direct Payment band</b>	<b>Maximum reduction</b>
Up to £30,000	<b>5%</b>
£30,000-£50,000	<b>10%</b>
£50,000-£150,000	<b>20%</b>
£150,000 or more	<b>25%</b>

For example, a claim worth £40,000 would have a reduction of up to 5% on the first £30,000 and up to a 10% reduction to the next £10,000.

- 2.5 Reduction percentages for later years are yet to be set by Defra and will take into account the plans for future schemes and wider decisions on government spending and once the transition period has ended, no further direct payments will be made in England unless they are made in relation to the final year of the agricultural transition or earlier.
- 2.6 At the start of the legislative process, the objective was to improve productivity and allow farmers to retire and leave the industry. There is no detail yet on how lump sum payments might work.
- 2.7 Farmers and land managers will also be able to apply for alternative support during this transition period, with productivity grants on offer next year and with Countryside Stewardship schemes remaining open to new applications in the first few years, which will help farmers to springboard into the upcoming Environmental Land Management scheme.
- 2.8 The national pilot for the new **Environmental Land Management Scheme (ELMS)** is expected to be open for participants by the end of 2021, with the scheme fully operational in 2024.

### **3.0 Supply chain**

- 3.1 The Act grants powers to improve transparency and fairness in the supply chain. These powers will be fleshed out in statutory instruments. There are powers to require a person in, or connected with, an agri supply chain to provide information connected with their activities in that chain. There are also

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fair dealing obligations for business purchasers in order to promote fair contractual dealing.

## 4.0 Food security

4.1 This was not in the draft bill at the start of its legislative journey but successful lobbying now means the Government have a duty to report to Parliament on UK food security. The first report will be due at the end of 2021 and then every three years.

## 5.0 Trade

5.1 The Government's announcement that it would bring forward an amendment to the Trade Bill to place the newly established Trade and Agriculture Commission ("TAC") on a statutory footing, and widen its remit, satisfied the Lords and finally pushed the Bill over the line to receive Royal Assent. The Government did not go as far as committing to ensure that future trade agreements include an obligation for imports to meet health, welfare and environmental standards. It did however set out reporting requirements of the Secretary of State to Parliament on all new negotiated trade agreements, including agricultural products. This will allow Parliament to consider the trade agreement before it is signed off, with knowledge of the extent to which the measures affecting agricultural products are consistent with UK statutory protection of health welfare and environmental standards.

## 6.0 Intervention, marketing standards and traceability

6.1 Less well known are the powers set out in the Act for the Government to intervene in agricultural markets, and to bring in measures for marketing standards, carcass classification and traceability.

## 7.0 'Public money for public goods'

7.1 Rather than paying farmers and land managers for the total amount of land they farm, the new financial assistance system will reward those who are able to demonstrate the delivery of certain outcomes through the Environmental Land Management Scheme (ELMS) – principally their work to enhance and protect the environment.

7.2 These are divided into the following areas:

- (i) **Delivery of environmental outcomes** – cleaner air, clean and plentiful water and thriving plants and wildlife through environmentally beneficial land and water management activities
- (ii) **Public access** – supporting the understanding of the environmental and health benefits that farmland and woodland can provide
- (iii) **Cultural or natural heritage** – managing land or water in a way that maintains, restores or enhances areas or archaeological, architectural, artistic, historic or traditional interests

- (iv) **Climate change** – managing land, water or livestock in such a way to help mitigate or adapt to the effects of climate change
- (v) **Hazards to or caused by the environment** – managing land in such a way as to prevent, reduce, or protect from hazards to, or caused by, the environment
- (vi) **Animal Health and Welfare** – actions by farmers, vets and other organisations to reduce endemic disease and keep livestock well maintained and healthy
- (vii) **Genetic Resources** – measures to support the conservation, maintenance and safeguarding of UK native and rare breed genetics relating to livestock or equines
- (viii) **Plant health** – measures which protect or improve the health of plants, crops, trees and bushes and conserving plants grown or used in agricultural, horticultural or forestry activity
- (ix) **Soil Health** – actions that promote the quality of soil and the protection and enhancement of soil health
- (x) **Productivity** – improving the productivity of agricultural, forestry or horticultural activities (including the growing of flowers and non-food crops) and supporting the sale, marketing, preparing, packaging, processing or distribution of products from these activities

## 8.0 New Entrant Support Scheme

- 8.1 The Act provides powers to give financial assistance (Clause 1). It is these powers that DEFRA will use to deliver a new entrant support scheme in future. DEFRA are actively consulting the Association of Chief Estates Surveyors (ACES) Rural Branch, as well as the Country Land and Business Association (CLA), Tenant Farmers Association (TFA), National Federation of Young Farmers Clubs (YFC), and others.
- 8.2 An important consideration for this initiative will be to define exactly what is meant by the term 'new entrant'? Would it for example, include a close relative succeeding to an '86 Act tenancy, or would it perhaps include a close relative 'taking a major share or control' of an owner occupied family farm? If the definition is left too open any potential financial assistance could be diluted and channelled away from Local Authority County Farms Estates who are arguably unique in having a raison d'être to provide new entrant opportunities.
- 8.3 DEFRA has suggested a key aspect of the scheme will be innovation, with the scheme being aimed at new entrants and landowners who bring new ideas, activities and different business models from those currently seen in the industry.

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## 9.0 Agricultural Tenancy Reforms

- 9.1 The Government held a consultation on reforming agricultural tenancies in England in 2019, with the intention for farmers to be more productive and have greater freedom in their business planning. As a result, the Agriculture Act will amend the Agricultural Holdings Act 1986 (AHA) to make it more 'fit for the 21st Century'. Some of the key changes are laid out below.
- 9.2 **Restrictive clauses** - AHA tenancies contain various restrictive covenants preventing tenants from undertaking activities that will change the use of the land and fixed equipment of the holding without gaining prior consent from the landlord. Examples of these are controls on erecting or altering buildings, sub-letting, changing agricultural production or diversifying into non-agricultural activities.
- 9.3 These clauses could therefore create problems for tenants in accessing funds in the government's new scheme of public money for public goods, as well as preventing tenants undertaking activities necessary to meet new regulatory requirements, such as updating or putting in new slurry stores to meet water pollution prevention regulations.
- 9.4 The Act, therefore, introduces provisions for tenants to object if their landlord refuses consent for such changes, providing a right for tenants to apply through arbitration or third-party determination to resolve such a dispute. It is also felt it will provide tenant farmers with more confidence to participate in whatever new schemes the government bring forward.
- 9.5 **Retirement age** - The minimum age at which an application can be made for succession on retirement of an AHA tenancy is 65. The Agricultural Act amends this minimum age so that applications can be made at any age in the future, allowing AHA tenants more freedom to decide when to retire and hand over the holding to their successor.
- 9.6 **Case A** – Arguably at odds with many of the previously referred to amendments and the wider policy of encouraging earlier retirement and younger generations bringing innovation and efficiencies, the Act amends the age on which a Local Authority Landlord can serve a 'retirement' notice on a smallholdings tenant from 65 to when the tenant has reached the earliest age that they can be in receipt of the state pension, currently 67.
- 9.7 It is arguably the case that the extension of Local Authority smallholding retirement tenancies will limit the progression of new entrants to farming as established tenants are not encouraged to make way before they reach state pension age.

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- 9.8 **Succession** - There are various conditions that someone wishing to succeed to an AHA tenancy must satisfy. The Agriculture Act alters two of these conditions to ensure that commercially successful and skilled farmers can succeed.
- 9.9 Currently, the occupier of another commercial unit of land is not eligible to succeed to an AHA tenancy. The Agriculture Act removes this commercial unit test completely on the basis it is not compliant with wider policy aim of improving productivity as it hinders growth and progression for succession tenants.
- 9.10 This permits a close family relative of the tenant who already occupies a commercial holding to be eligible to succeed to an AHA holding in future (providing they also meet the other eligibility criteria).
- 9.11 Furthermore, succession applicants are required to demonstrate their suitability to occupy the holding, taking into account their experience and knowledge of farming practices, physical health and financial standing.
- 9.12 The Agriculture Act contains provisions to modernise this process and create a new Business Competency Test so that a Tribunal must consider certain matters when deciding if the applicant has the capacity to farm the holding commercially to high standards of efficient production and care for the environment.
- 9.13 **Rent reviews** - The Agriculture Act contains provisions to replace a demand for arbitration in the rent review process with a notice of determination, which may be followed by either arbitration or third-party determination. This will have the effect of reducing the timescale for appointing a third-party expert from 12 months prior to the rent review to any time prior to the rent review.
- 9.14 Furthermore, the act removes barriers to landlord investment in AHA holdings by introducing amendments to the rent review process that would see the arbitrator or third-party expert directed to explicitly disregard landlord investments (under written agreement with the tenant) from the rent review determination process. Additionally, any benefit to the tenant from the improvement should also be disregarded from rent considerations while the tenant is making payment for such improvement.
- 9.15 These amendments will give landlords more certainty that they will not lose their economic return on investment at rent review, which would help to encourage increased investment in their tenanted holdings.

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## **10. Conclusion**

10.1 The Agriculture Act is undoubtedly a hugely important piece of legislation for UK farming and makes positive proposals to the sector as it evolves to meet the post-Brexit world. As always though, the devil will be in the detail.

## **11.0 Options/Alternatives**

11.1 Alternative options have been considered and discounted as they are believed to either be contrary to current Estate policy and/or not in the best financial interests of the Estate.

## **12.0 Consultations/Representations/Technical Data**

12.1 The views and opinions of the Devon Federation of Young Farmers Clubs and the Estate Tenants Association will be presented by the two co-opted members to the committee.

12.2 No other parties have been consulted and no other representations for or against the proposal have been received

12.3 The technical data is believed to be true and accurate.

## **13.0 Financial Considerations**

13.1 The Author is not aware of any financial issues arising from this report.

## **14.0 Environmental Impact Considerations (including Climate Change)**

14.1 The Author is not aware of any environmental impact (including climate change) issues arising from this report.

## **15.0 Equality Considerations**

15.1 The Author is not aware of any equality issues arising from this report.

## **16.0 Legal Considerations**

16.1 The Author is not aware of any legal issues arising from this report.

## **17.0 Risk Management Considerations**

17.1 The Author is not aware of any obvious risks to manage.

## **18.0 Public Health Impact**

18.1 The Author is not aware of any public health impact.

## **19.0 Summary/Conclusions/Reasons for Recommendations**



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19.1 The Author has prepared this report in accordance with the findings of the County Farms Estate Strategic Review (April 2010)

Rob Parkhouse, Head of Digital Transformation and Business Support

Electoral Divisions: All

Local Government Act 1972: List of Background Papers:

None

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