



# **HERTFORDSHIRE COUNTY COUNCIL**

## **Rural Estates**

### **Farm Letting Procedure**

**May 2020**

## Background

### England Wide County Council Farm lettings

- County Councils with farms or rural estates let their holdings to farming tenants as they are unable to farm land themselves.
- Whilst the type of tenancy the tenants occupy under is governed by legislation, (The Agricultural Tenancies Act 1995) the way the farm is offered to the market, who it is offered to and how the tenant is selected, is not subject to legislation, nor is there a standard Public Sector procedure or approach.
- Councils have similar approaches but with differing policies and different approaches to tenant selection.
- For County Council Small Holdings, the situation is different in that there is legislation (The Agriculture Act 1970) which provides a 'general aim' for small holdings lettings but again the letting process is not governed nor is there procedural guidance.
- A farm letting could vary from a few acres of bare land to a fully equipped holding with yards and buildings and one or more houses.

### Hertfordshire County Council Farm lettings

- Hertfordshire County Council (HCC) have used a number of standard models for their farm letting procedures and in some cases the letting process has been outsourced to a framework advisor.
- Whilst this process has been sufficient in the past, the Rural Estates Team requires an up to date, robust and practical document that can be used as a guide for existing and future officers when undertaking farm lettings.
- The document needs to refer to the current HCC Rural Estates Improvement Plan and any future Asset Management Plans.
- The document also needs to include (where applicable) guiding procedures papers for use by existing and future officers.
- HCC have both a Smallholdings and Green Belt Estate. This document is to be used for lettings on both estates but it is noted that in respect of the Smallholdings Estate letting the Agriculture Act 1970 provides additional guidance over the choice of tenants.

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# 1 Letting Procedure

The letting procedure for farms within the Rural Estate provides the strategic direction for the letting.

- a) All vacant farms will be let by way of open market tenders unless there are overriding commercial or public interest benefits for not doing so.
- b) New arm lettings will generally be on a minimum of 10 year terms with the preference to grant longer terms where appropriate.
- c) Appropriate farm diversification will be encouraged.
- d) All lettings will include regular break clauses for development of any type.
- e) All lettings will comply with Property Procedure Rules and achieve Best Value.
- f) Where the HCC Improvement plan identifies specific areas identified for non-agricultural uses, short term lettings of 1 year or less may be appropriate.
- g) Where there is an ongoing strategic review of a farm or estate management necessitates then any letting may be on a temporary short term basis.

The selection criteria will need to take account of the Strategic Objectives for the Rural Estate as set out in the Rural Estate Improvement Plan and the individual holding to be let.

## 2 Letting Type

The Letting Procedure sets out that all vacant farms should be let by way of open market tenders unless there are overriding commercial or public interest benefits for not doing so (for example a surrender of a secure tenancy in favour of a long term non secure tenancy).

This deals with 'vacant farms' i.e. where tenants have surrendered their holdings, retired or died.

There are cases where the initial term of an agreement that has expired and notice to quit the tenancy will have been served by HCC.

In such instance, HCC will have a choice as to whether they:

- a) Re-let the farm to the existing tenant (in essence a lease renewal)
- b) Re-let to the farm tenant's 'successor' i.e. son or daughter
- c) Let the farm by way of a private tender to selected existing tenants
- d) Let the farm by way of an open market public tender
- e) Re-let the farm on a short-term basis where the land is being farmed through an agreed arrangement

### 3 Pre Marketing Health and Safety

The key pre marketing consideration is Health and Safety and the risk management of the farm site.

There are three elements which require action:

a) Property Inspection Forms

In order to understand (and therefore mitigate the risk of harm to public accessing a farm site) an appreciation of the physical aspects of the farm (buildings, pits, wires etc.) requires an inspection and recording of findings.

b) Viewing Risk Assessment

Once a property inspection form has been completed a viewing Risk Assessment can be prepared. It has to be understood that at the viewing days, a number of people are coming on to a working farm who (albeit are normally familiar with a farming environment) are unlikely to be familiar with the farm they are viewing or its dangers.

The viewing Risk Assessment should make dangerous areas very clear and make a recommendation not to access such areas. If an area on a farm is considered of particular danger (i.e. a grain pit in a poorly lit barn) then it should be cordoned off to prevent access.

c) Vacant Premises Management Plan

In some instances, a farm may be vacant before it can be re-let (i.e. to resolve difficult end of tenancy or dilapidation claims or to carryout works prior to letting). In these cases as soon as the tenancy has ended a Vacant Premises Management Plan should be put in place.

This deals with the particular risks associated with vacant property and the inspection routines that need to be adhered to.

## **4 Invitation to Tender documentation and processes**

The Invitation to Tender (ITT) process needs careful consideration to achieve the best possible letting in terms of rent and tenant selection.

At the start of the ITT project it is essential to set out a realistic timescale schedule. It also has to be mindful of the farming calendar so that the letting gets the full attention it requires, which might not be the case during harvest.

The following is required:

### **a) Letting particulars**

These need to be purely factual with sufficient information to allow a potential applicant to decide whether to proceed with the letting or not. The letting particulars need to include the following:

- Location
- Description (to include farming system)
- Soil types
- Land Grades
- Size (field parcels with land use)
- Plans
- Access
- Services
- Boundaries
- Entitlements and quotas
- Holdover
- EPC (if required)
- Disclaimer

b) ITT document

The ITT documents need to include the following:

- Farm name and address
- Tenancy term
- Tenancy start date
- Heads of Terms
- ITT pack cost (if applicable)
- Tender submission date/address/ envelope marking
- Viewing day details
- Officer contact details
- Selection process
- Selection criteria
- Selection process timescales and award and signing of tenancy timescale detail
- Obligations on the incoming tenant (purchase of entitlements/crops etc.)
- Disclaimer

For short term lettings, all of the above information might not be required but if timescales allow, sufficient information should be included or available on request (if held by HCC or possible to obtain).

c) Selection criteria

The selection criteria will need to take account of the Strategic Objectives for the Rural Estate as set out in the Rural Estate Improvement Plan (and the individual holding to be let).

There are no 'standard' selection criteria but examples are set out below:

1. The applicant's farming or agricultural experience
2. The applicant's formal training and qualifications
3. The level of rent offered
4. The applicant's financial stability
5. The applicant's business plan
6. The applicant's attitude to Health and Safety
7. The applicant's age
8. The applicant's surety (are they offering a guarantor)



d) Scoring and Tender evaluation

When evaluating both the tender returns and interview responses these will be scored against pre-agreed criteria which are contained within the Tender Evaluation Guidance document.

A key part of the scoring weighting is to have levels (i.e. 1-5) to be able to rank candidates – **AND** – a guide system with exemplar answers so that the scores given are done so on tangible information rather than a view point or a perception by the scorer.

An example is the criteria of 'The applicant's farming or agricultural experience'. The ranks are 1 – 5 and the ranks are qualified by years of experience:

1. no agricultural experience
2. less than 5 years or non-pure agricultural related
3. years agricultural related
4. 5 – 10 years agricultural related
5. 10 years plus agricultural related

e) Scoring matrix

The scoring matrix is used to summarise the scoring into a chart which ranks the applicants and is the underpinning document to the decision made. Normally the applicants are listed on each row with the columns on the sheet showing the selection criteria. The scores can be entered on the sheet and the totals shown, which in turn shows the successful applicants.

f) Shortlist size

The Scoring Matrix produces the candidates ranked from first to last. For the pre-selection interview normally a number of candidates are asked to attend. Normally there are three unless there is a specific reason for more i.e. a joint 3<sup>rd</sup> scoring or a lack of suitable applicants.

There is neither guidance nor a uniform protocol in the public sector for the short list size and in some cases it depends on the type of holding being let and the level of rent involved.

## **5 Marketing**

Sufficient marketing and advertising is necessary to reach the desired audience and encourage a number of high quality applicants to tender.

Print media advertising is typically expensive and the type and scale of advertising needs to fit the type of farm being let.

For a fully equipped farm (say 150acres + - which in Council terms will be at the larger end of farm on the Estate) may well attract national, regional and local interest. For say 50 acres of bare arable land, the market would mainly be local (it is unlikely to be viably farmed by farmers located more than say 20 miles away).

Once the type of advertising is agreed (along with the costs) the right publications have to be chosen. For letting farms the predominant print media is the Farmers Weekly. It is read by most farmers of all scales in the UK. Farmers Guardian also has a strong national readership but advertising in both may not be cost effective.

There are thirty plus other national farming publications such as Farming Monthly, Anglia Farmer, Agronomist & Arable Farmer, Farmers Guide, Profi but all of these are not the industry 'standard' place to find a farm to let. It is unusual to find a farm to let, whatever the type and size, which has not be advertised in the Farmers Weekly.

Regional advertising is carried out effectively via the Farmers Weekly.

Local advertising in print media can attract local interest but normally local papers are not the place potential tenants are looking for a holding to rent. As the cost is normally low, there may be some cases (particular if the Council is looking for a range of diversified uses for a smaller holding) that local papers are worth placing an advert in.

Local advertising is best achieved using advertising signboards at or close to the holding but not where there is a history of trespass etc.

The remainder of the advertising should be carried out via digital media. The following platforms should be considered:

1. Farmers Weekly website (normally comes free with a printed advert)
2. HCC website
3. External agent's website (if applicable)

## **6 Letting Launch**

There are number of points that arise post tender launch.

- Viewing days

Viewing days are often the easiest method of allowing potential candidates sufficient time to inspect the holding. For principal farm lettings there would be at least one viewing day.

If for health and safety reasons on site viewing days cannot happen best endeavors will be made to hold these virtually.

- Enquiry records

Enquiry records should be kept and contact details recorded. A record and notes of who inspected on the viewing day should be kept – which also serves the purpose of keeping a record of access on the farm for H&S and the Risk Assessment.

- Mid tender changes/communications

On occasions, timescales change and aspects of the letting may also change. If this is the case then all enquirers should be notified via a standard communication (email is preferred). A clear process will ensure that no one party is put at any disadvantage nor is confused by changes in the ITT.

Any questions asked and answers provided during viewings days will be collated and circulated to all parties who attended.

## **7 Tender Returns and Tenant Selection**

Having an agreed process that deals with the tender returns is important. It needs to be clear as to:

- Tender returns

The address the tenders are posted or emailed to and ensuring that any tenders that are late are clearly marked as so. A fixed and strict timescale should be observed and late tenders disregarded.

- Tender opening

Tenders will be opened and reviewed by at least two property officers or appointed agents.

- Desktop tender review

When reviewing the tenders and preparing the initial scoring sheet the tender evaluation guidance should be referred to. The same attendance as above should apply.

Any notes (even informal hand written ones) should be kept and filed to ensure they are capable of being reviewed if an issue arises.

The scoring sheet and matrix should be completed and attached to the internal recommendation for the shortlisted applicant interviews.

- Interviews

The shortlisted candidates need to be notified within the timescales set out in the ITT. When they are requested to attend the interview they need to be made aware of whom they are being interviewed by.

Interviews should be attended by more than one property officer from, or agent on behalf, of HCC and it should be considered whether appropriate or necessary to have a senior member of staff present. There will be a minimum of 3 on the interview panel

- Un/Successful notification

Following internal reporting and receipt of internal instructions, the successful and unsuccessful parties will be informed.

If requested feedback will be provided to all parties who tendered.

The best unsuccessful candidates need to be made aware of that and the fact that they may still have the opportunity to proceed in the process, should there be an unexpected issue with the chosen candidate arise.

- Complaints/appeals procedure

There is no appeals procedure as part of this process and applicants should be notified of this as part of the disclaimer element of the ITT.

Applicants will not be discriminated against on the grounds of sex, race, marital status, sexual orientation or disability. Age will only be taken into consideration when necessary to take account for statutory guidelines.