**CENTRAL ASSOCIATION OF AGRICULTURAL VALUERS**



**CAAV EXAMINATIONS 2019**

**14TH NOVEMBER 2019**

**NATIONAL ORAL QUESTIONS**

**Each Group is to choose TWO questions from the four and then ask those same**

**two questions of all the candidates in that Group.**

**Question 1**

**Planning Permission for an agricultural worker’s permanent dwelling in the open countryside**

Your client is seeking to obtain planning permission for a dwelling house for one of his employees who manages his 32,000 bird poultry unit. The unit is situated in the open countryside and was built 4 years ago.

**England**

**a) What does the National guidance state in respect of rural workers’ dwellings in the countryside?**

 **Answer**

National Planning Policy Framework paragraph 79 states:

 ‘Planning policies and decisions should avoid the development of isolated homes in the countryside unless there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside. **(1 mark)**

**b) The National Planning Policy Framework offers no guidance on how to establish an essential need. What do many Local Authorities and Inspectors still rely on for guidance?**

Planning Policy Statement 7 Annex A **(½ mark)**

 **c)** **While planning policy varies between Local Authorities, what key evidence is required to justify the dwelling?**

 **Answer**

 Establish a clear functional need for the dwelling relating to a full time worker employed on the unit;

 Proof that the existing business has been established for 3 years, has been profitable for at least one, is currently financially sound as is likely to remain so;

 The need for the dwelling cannot be provided by an existing dwelling which is suitable and available for occupation by the worker concerned;

 The size, design and siting of the proposed dwelling is commensurate with the poultry unit and the size of the holding. **(2 marks)**

**d)** **Provide three examples of practical issues in support of the functional need in support of your client’s application**

 **Answer**

Details of man hours to prove the business supports the need for a full time worker;

High standards of animal husbandry and welfare required;

Availability at all times for the proper functioning of the unit;

Quick response to situations which could lead to smothering or a serious loss of stock (intrusion by predator, fire, failure of ventilation, feed, water and lighting systems);

The need to meet regulations and biosecurity requirements;

Security. **(Any three for 1½ marks)**

**Wales**

1. **What is the main statement of the Welsh Government’s planning policy for rural housing?**

 **Answer**

TAN 6 (TAN = Technical Advice Note) – Planning for Sustainable Rural Communities – applying Planning Policy Wales

*(Supported by Practice Guidance – Rural Enterprise Dwellings)*

 **(½ mark)**

1. **What does the Welsh Government’s guidance state in respect of rural workers’ dwellings in the countryside?**

Planning Policy Wales sets out the general approach at its 9.3.6, followed by TAN 6:

“Isolated new houses in the open countryside require special justification, for example where they are essential to enable rural enterprise workers to live at or close to their place of work in the absence of nearby accommodation. All applications for new rural enterprise dwellings should be carefully examined to ensure that there is a genuine need. It will be important to establish whether the rural enterprise is operating as a business and will continue to operate for a reasonable length of time. New rural enterprise dwellings should be located within or adjoining the existing farm/business complex or access. Local planning authorities should follow the guidance in TAN 6 with regard to the requirements for rural enterprise dwelling appraisals. “

 **(1 mark)**

**c) What tests does TAN 6 set for a Rural Enterprise dwelling in this case?**

An existing functional need

Requiring a full time worker

The enterprise has been established for at least three years, profitable for at least one

Both the enterprise and the need for job is financially sound and has a clear prospect of remaining so

The need could not be met by another dwelling (or building conversion) on the farm

Normal planning requirements (siting, access, etc) are met

 **(2 marks)**

**d)** **Provide three examples of practical issues in support of the functional need in support of your client’s application**

 **Answer**

Details of man hours to prove the business supports the need for a full time worker;

High standards of animal husbandry and welfare required;

Availability at all times for the proper functioning of the unit;

Quick response to situations which could lead to smothering or a serious loss of stock (intrusion by predator, fire, failure of ventilation, feed, water and lighting systems);

The need to meet regulations and biosecurity requirements;

Security. **(Any three for 1½ marks)**

**Scotland**

**a) What does the Scottish Planning Policy state in respect of rural workers’ dwellings in the countryside?**

 **Answer**

**Scottish Planning Policy 2014** is generally positive on rural development but with approaches varying with remoteness of the area and to be consistent with its character. **(1 mark)**

 *Background*

“promotes economic activity and diversification, including, where appropriate, sustainable development linked to tourism and leisure, forestry, farm and croft diversification and aquaculture, nature conservation, and renewable energy developments, while ensuring that the distinctive character of the area, the service function of small towns and natural and cultural heritage are protected and enhanced.” (Paragraph 79)

“In more accessible or pressured rural areas … a more restrictive approach to new housing development is appropriate, and plans and decision-making should generally:

• guide most new development to locations within or adjacent to settlements; and

• set out the circumstances in which new housing outwith settlements may be appropriate, avoiding use of occupancy restrictions. (Paragraph 81)

“… where new development can often help to sustain fragile communities, plans and decision-making should generally:

• encourage sustainable development that will provide employment; …

• …

• where appropriate, allow the construction of single houses outwith settlements provided they are well sited and designed to fit with local landscape character, taking account of landscape protection and other plan policies; …” (Paragraph 83)

**b) Scottish Planning Policy offers no specific guidance to planning authorities on considering such applications. What factors might a council typically consider for this application?**

 **Answer**

The scale, viability and detail of the poultry enterprise so that there is clear evidence that it is financially sound

The labour requirements, including the need for a specialist worker and the level of attention needed outside normal hours warranting a full time worker

A new house is essential for the proper functioning of the enterprise with a clearly established need for a worker to be readily available at most times rather than in other available accommodation in the locality

The existing residential accommodation available to the farm and other development opportunities on the farm (and whether any dwelling has been sold away)

Normal planning issues such as siting and access and whether the size, design and siting of the proposed dwelling is commensurate with the poultry unit and the size of the holding. **(2½ marks)**

**c)** **Provide three examples of practical issues in support of the functional need in support of your client’s application**

 **Answer**

The business plan showing profitability and sustainability – the council might ask for this to be independently prepared or verified

Details of man hours to prove the business supports the need for a full time worker;

High standards of animal husbandry and welfare required;

Availability at all times for the proper functioning of the unit;

Quick response to situations which could lead to smothering or a serious loss of stock (intrusion by predator, fire, failure of ventilation, feed, water and lighting systems);

The need to meet regulations and biosecurity requirements

Security

 **(Any three for 1½ marks)**

**Question 2**

**Capital Gains Tax**

Your elderly client Mr B Johnson owns a 170 hectare mixed farm which he purchased in 1990 and wishes to sell off an outlying area of 50 hectares. He believes some sort of tax may be payable. He intends to continue farming the remainder of the farm.

 **a) What tax is he liable to pay on the sale of the land?**

 **Answer**

 Capital Gains Tax **(½ mark)**

 **b) How is it calculated and are there any allowances?**

 **Answer**

It is the difference between the cost of the land when the vendor became the owner and the sale price of the land.

The allowances are the Annual Exempt Amount in the sum of £12,000, the expenses of the sale and enhancement expenditure, if applicable. **(1½ marks)**

**c) What are the three main reliefs available against Capital Gains Tax in respect of the potential sale of your client’s land?**

 **Answer**

 Rollover Relief, Holdover Relief and Entrepreneurs’ Relief. **½ marks)**

**Which one of the reliefs applies to your client and briefly explain how it works?**

**Answer**

Rollover Relief is available and provided he invests the full amount of the gain in a similar qualifying business asset then there will be no Capital Gains Tax to pay. **(1 mark)**

**d) If Mr Johnson had purchased the land in 1974 what is the date of valuation for the base cost?**

 **Answer**

 31st March 1982 **(½ mark)**

 **e) What is the Capital Gains Tax rate for a UK higher or additional rate tax payer and when is the tax due to be paid?**

 The tax rate is 20%. The payment is due by the 31st January following the tax year of the disposal. **(1 mark)**

**Question 3**

**Farming with Contractors Agreement**

Your client owns 125 hectares of easy working arable land which is currently rented out under a Agricultural Holdings Act 1986 tenancy agreement (1991 Act in Scotland). The Tenant has served notice to retire and is vacating the land after harvest 2020. Your client wishes to retain the land but does not wish to be involved in any day to day or routine management responsibilities.

 **a) What are the alternative farming arrangements available to your client?**

 **Answer**

* + - Farming with Contractors Agreement
		- Share Farming
		- Partnership
		- Letting (FBT in England/Wales; SLDT/MLDT in Scotland) **(Any 3 for 1 mark)**

**b) What involvement would your client have on an annual basis in respect of a Farming with Contractors Agreement and during the period of a 5 year tenancy?**

 **Answer**

 **Farming with Contractors Agreement (not exhaustive)**

* At the beginning of the cropping season - meetings to agree a cropping programme, budget and purchase of inputs
* Regular meetings (say one per quarter) to discuss land management, cross compliance and any other issues
* Regular inspections of the land and crops
* Meetings to discuss the storage of produce and the sale thereof
* Preparation of the Statement of Account
* Management of the bank account
* Preparation, management and submission of the Basic Payment Scheme application
* Management of Environmental or Countryside Stewardship Schemes – if any
* Record keeping (**5 answers for 2½ marks)**

**Tenancy (not exhaustive)**

* At the beginning of the tenancy - agree the terms of tenancy
* Thereafter the collection of the rents and 6 monthly inspections of the land
* Rent review discussions
* Handling termination **(1 mark)**

 **c) What is the likely range of:**

 **i) The Farmer’s first charge**

 **Answer**

 £200-£245/Ha (£80-£100/acre) **(¼ mark)**

 **ii)** **The Contractor’s basic return**

 **Answer**

 £245-£295/Ha (£100-£120/acre) **(¼ mark)**

**Question 4**

**Building Cost Reinstatement**

You have been instructed by an existing client who owns a small estate to undertake a reinstatement cost assessment of the traditional and modern range of farm buildings on the Home Farm which is in hand.

**a) What do you need to establish and consider prior to your inspection?**

**Answer**

Ensure your client knows what his insurer requires;

The VAT status of your client;

Discuss instructions with your client to determine what buildings are insured;

Identify whether any buildings are excluded;

Determine whether any buildings are insured on a different basis to the remainder;

Determine what plant and equipment is included in the schedule;

Determine how walls, yards, roads and other external works and ancillary items are to be treated;

Obtain a plan to scale of the buildings to be assessed;

Identify any occupiers of any of the buildings to be assessed;

Consider Health and Safety procedures – advise work colleagues of your whereabouts and return time, particularly if lone working, procure appropriate clothing such as a high vis jacket, and equipment and establish if there is any risk from animals on site. **(5 answers for 2½ marks)**

**b) Name four of the main insured risks or ‘perils’ associated with farm buildings**

**Answer**

Fire; Storm; Flood; Impact; Escape of Water; Subsidence; Theft; Explosion; Aircraft; Earthquake; Malicious Damage; Accidental Damage **(Any 4 for 1 mark)**

**c) Provide a breakdown of the various elements of a rebuilding cost assessment**

 **Answer**

The cost of rebuilding the entire building

Demolition of the remains of the original building

Site clearance

Removal of any contaminated material such as asbestos

Professional fees

VAT if applicable **(1½ marks)**