

CENTRAL ASSOCIATION OF AGRICULTURAL VALUERS – EASTERN GROUP

Written Afternoon Practical Examination

Wednesday 9th November 2016

Examination to be held at

The British Racing School, Snailwell Road,

Newmarket Suffolk CB8 7NU

Guidance for Candidates

Candidates should have read the 2016 Guidelines for Practical and Written Examinations.

Four out of five questions in this paper should be answered.

Time allowed – 2½ hours.

Introduction and background

Harlocks Farm comprises a Fenland Holding of about 234 Ha (578 Acres). It includes a house adjoining a substantial farmyard. The holding is verged red on the plans.

The Landlord is Mr I M Wealthy, a self made millionaire who purchased the freehold about 3 years ago from a traditional institution. Mr Wealthy has no knowledge of farming but his accountant recommended investing in farmland and indicated that a let holding with a tenant approaching retirement was a good way to obtain a capital gain. The current rent is £ 50000 per annum. The Landlord served notice requesting a rent review in October 2015 and the review is not yet agreed. A request for Arbitrator appointment has been made to the President of RICS.

Tenant is Mr John Smith, who took the tenancy in 1983 aged 31. Mr Smith is married, and he is not in the best of health. His wife deals with the farm office work. His son James aged 29 works in the business with his father having been to agricultural college. Mr Smith also owns about 41 Ha (101Acres) acres of land freehold with a couple of cottages which he farms in hand adjoining the holding (verged green on the plans).

Mr Smith and his wife live in the farmhouse but are considering moving out and buying a bungalow. Over the years the Tenant has invested heavily on the holding, with Landlords consent, and has added the two potato stores and a reservoir that enables significant irrigation.

Adjoining the farm a block of 68Ha (170Acres), with a modest house and a general purpose store, verged blue on the plans, is about to be let by the County Council, on an FBT. The Council have a policy of letting to new entrants to farming and requiring them to live in the house on the holding.

The 1:20000 scale plan shows the location of the various blocks of land. The 1:2500 Plan shows in more detail the house, yard, buildings and closest fields on the AHA holding, and the owned cottages. The lettering on the plans identifies the various buildings and areas specified in relation to the exam questions.

QUESTION 1

Mr Wealthy would like to review the rent payable for the holding with effect from 11th October 2016 and is hoping for an increase given the guide price issued by the County Council for their adjoining holding.

A Explain the notice procedure which should have been followed in order to enable the review at this date and when the Mr Smith should have received the appropriate notice. (2 marks)

B The rent review is being conducted under the Agricultural Holdings Act 1986. Explain the definition of the rent properly payable in respect of the holding under the Act including any disregards that are made from the determination. (3 marks)

C If the parties cannot agree the rent payable for the holding what option is available for resolving the dispute. Detail whether this involves any third parties and in what capacity, any notices which are required and the likelihood of fees payable. (2 marks)

D If this rent review was taking place under the Agricultural Tenancies Act 1995 detail below how the rent would be calculated and how this would differ to the rent calculated under the Agricultural Holdings Act 1986. (2 marks)

E As detailed in the scenario the farm comprises 578 acres (about 570 A of productive arable land) with a typical rotation including 100 acres of vegetables on an annual cropping licence agreement with the Landlord's permission, 50 acres of potatoes, 50 acres of winter beans, 150 acres of oil seed rape and 220 acres of winter wheat. The holding is fully equipped with appropriate grain storage, potatoes are stored in the tenant's improvement building, appropriate workshop and machinery storage buildings and a four bedroom detached farmhouse. Prepare additional notes to assist you at a meeting with Mr Smith to discuss information you require for calculating the rent properly payable for the holding with effect from 11 October 2016, detailing information you wish to confirm with him and how you will use this information in your methodology. (6 marks)

QUESTION 2

The Farm office, labelled G on the accompanying plan, received planning permission 15 years ago. It has since become excessive for the farming arrangement and Mr Smith has asked you to consider alternative uses for the building.

The building is currently limited to office use in conjunction with the farm business only.

A Using bullet points, please list four possible alternative uses which may be available to Mr Smith (2 Marks)

B Please advise Mr Smith on which alternative use you recommend for building G.

Your answer should include:

A description of the relevant planning process to achieve your recommendation;

Detail on potential constraints to development under your chosen route;

Timescales and fees involved. (9 Marks)

B (3) The local authority became a Community Infrastructure Levy charging authority on the 13th February 2013. What is CIL and will your proposed alternative use attract a CIL charge? (2 Marks)

B (4) Mr Smith tells you that he does not pay business rates on the farm office. Should he be paying rates and why? (2 Marks)

QUESTION 3

You have been to visit Mr & Mrs Smith and James at the farm. They asked you for advice in regards to the availability of succession to the tenancy of Harlocks Farm as they are concerned about Mr Smith's poor health.

In a letter set out your advice with regards to:

A The availability of succession to the tenancy, who may be eligible to succeed, the criteria they will have to meet, and the necessary procedure to be followed. (12 marks)

B Any issues that may arise for James to succeed to the tenancy of Harlocks Farm if he becomes the tenant of the adjoining County Council farm. (3 marks)

QUESTION 4

Shortly after John Smith took on Harlocks Farm, the fields labelled W, X, Y and Z extending to 29.07ha were re-drained with the unconditional written consent of the then Landlord. The cost of this re-drainage was met in part by a government grant, with the balance being met by John. In recent years the drainage in these fields has become problematic, is affecting crop yields, and requires significant jetting/repair on an annual basis. John is now thinking that given the numerous problems he is regularly experiencing, and the cumulative costs, the land should now be fully re-drained again.

John and James recently spoke to Mr Wealthy about these issues. He was however totally unreceptive, saying that he wasn't interested in tenant's trifling problems, that all he wanted was vacant possession so he could sell the farm on at a profit, that this was his final word on the matter, and not to bother him about these drainage problems again. This attitude made John and James feel somewhat aggrieved.

(For the purposes of this question, assume that any potential claims would be dealt with at termination, and would not be rolled over in the event of Succession)

John and James have requested that you write them a letter setting out your initial advice in respect of the following:

A The likely method/materials that would now be used in the re-drainage, and a budget cost for the re-draining? (2 Marks)

B The legal status of the existing drainage system and how this is likely to be treated and compensated for should John die? (2 Marks)

C The legal options available to John for proceeding with the new drainage scheme, and in respect of each option;

i) The legal status of the new drainage system?

ii) How that option may address the attitude previously taken by Mr Wealthy?

iii) In the case of any particular option, if Mr Wealthy would have any alternative course of action available to him, and what consequence this may have on the Tenancy?

iv) How any drainage scheme installed under these options may be legally and practically treated should John die in the foreseeable future?

(9 Marks)

D Recommend what you consider to be the most suitable course of action in John Smith's current circumstances and briefly justify the recommendation. (2 Marks)

QUESTION 5

Mr John Smith's son, James, has approached you for advice on preparing a tender for Nornea Farm (68Ha shown outlined blue on the Area Plan), which is being offered by Cambridgeshire County Council on a Farm Business Tenancy to commence on 29 September 2017. The Council's policy is to encourage new entrants and for the tenancy initially to be for 5 years with a negotiated renewal for 20 years thereafter. James would like to take this tenancy on himself.

- A Provide a list of headings that you would use in your client's tender document. (4 marks)
- B Prepare a budget for the first year on the assumption that it will be put into an arable rotation. Your budget should include gross margins and fixed costs. (7 marks)
- C Provide advice on the level of rent that should be tendered for the holding. (1 mark)
- D Briefly explain any other matters that James needs to consider with regard to taking on this tenancy. (3 marks)

END OF PAPER