



Buckinghamshire County Council Select Committee

Finance, Performance and Resources Select Committee

Report to the Finance, Performance and Resources Select Committee

Title:	Agricultural Estate – Rent Reviews
Committee date:	31 October 2013
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Report signed off by Cabinet Member:	Peter Hardy, Finance & Resources
Electoral divisions affected:	All

Purpose of Agenda Item

To provide the Committee with further information on the rent reviews currently ongoing on the Agricultural Estate, following the request by the Committee for an update following on from the OSCC meeting on 26 March 2013.

Background

During 2011, there were some 75 agricultural holdings with:

- Some 60 holdings let under agricultural tenancy agreements
- Some 15 holdings let under licences or commercial Landlord and Tenant 1954 Act tenancies

Agricultural tenancy agreements:



- These are governed by either the Agricultural Holdings Act (AHA) 1986 or the Agricultural Tenancies Act 1995 (Farm Business Tenancies) and have entirely separate rent review procedures and mechanisms
- The AHA 1986 sets out the rent formula provisions. This considers productive capacity and related earning capacity of the holding assuming a competent tenant. The rent review procedure requires that the rent is determined by an arbitrator. However, it is often the case that the landlord and tenant seek to negotiate and agree a rent rather than go through the entire statutory arbitration procedure which incurs costs for both landlord and tenant
- The ATA 1995 allows some freedom of contract for the parties to agree the basis of rent review but this must be expressly stated within the tenancy agreement. In the absence of any express agreement, the rent is reviewed in accordance with the 1995 Act to an open market rent. If the parties cannot agree a rent, the matter is referred to an arbitrator
- Under both the 1986 and the 1995 Act, the rent review can also take into account any supplemental agreements, for example, where the landlord has given formal consent to a tenant to sub-let cottages on the holding and/or for some diversification such as DIY horse liveryes
- Generally, the outcome of the rent review will take effect for a three year period unless there is a factor which triggers the three year cycle such as a surrender of part of the holding, the terms of the tenancy are varied eg to permit diversification.

In respect of the 60 holdings let under agricultural tenancy agreements:

- BCC served 44 notices giving 12 months prior notice to the tenants to review the rent. The notice demands that the rent payable in respect of the holding shall be referred to arbitration.
- BCC served 6 notices to quit to bring the tenancy to an end with a view to generating a capital receipt
- No notices were served on some 10 holdings as these holdings are predominantly bare land extending to a few acres with rents generally not exceeding £500 per annum – a commercial view was taken and it was considered that any potential rent increase would be outweighed by the costs associated with negotiations

- For budgetary purposes, BCC forecast the rent review would increase rental income by 40%. This did not take into account diversification
- For budgetary purposes, BCC allocated a budget of £50,000 for the agent's fees associated with the rent reviews which should include costs associated with arbitration where it has not been possible to reach agreement with the tenant. However, further money may need to be allocated to the rent review process if negotiations become protracted and/or a significant number of reviews are referred to arbitration.

As at the end of September 2013:

- 31 rent reviews had been agreed, without referring the matter to arbitration, whereby the necessary Memorandum of Agreement has been signed by both the tenant and BCC as landlord (ie 70% of the total number of holdings whereby rent review notices have been served)
- 3 rent reviews have been agreed in principle (without referring the matter to arbitration) and the Memorandum of Agreement have been sent out for signature by the tenants but have yet to be received back
- BCC's agent is still seeking to reach agreement through negotiations with the tenant / tenant's agent without referring the matter to arbitration although it is likely that 75% of the remainder will be determined by an arbitrator.
- Simultaneous with the rent reviews, BCC has sought to address any breaches of the terms of the tenancy agreements and regularise arrangements whereby a tenant has diversified but where the terms have not been documented. This accords with the recommendations set out within the Asset Management Plan for the Agricultural Estate as approved by Cabinet in June 2012

Of the 31 rent reviews that have been formally documented:

	Total rent prior to review (£ per annum)	Total rent following review (£ per annum)	% change
Holdings with no sub-letting and/or diversification	120,848	169,430	40%
Holdings with sub-letting	102,213	199,850	95%

and/or diversification			
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BCC's costs associated with the rent reviews:

- Following the drafting of a specification for the work associated with the rent reviews, the matter was put out to external agents to quote via the SouthEast Business Portal, Quick Quote Submission. Quotes were invited on a fixed fee basis for the rent reviews and an hourly basis to address the breaches although agents could also put forward an alternative basis to combining both elements of work. Agents had to also state the basis of charges in the event that the rent review was referred to arbitration
- Quotations were submitted via the Portal in June 2012 and following the evaluation, Bruton Knowles were appointed to deal with the rent reviews (note – there were a few holdings where BCC had already been in discussions and negotiations with tenants on other matters and the agent acting on behalf of BCC on these matters has dealt with the rent reviews)
- Bruton Knowles were appointed on the basis of a fixed fee for the rent reviews up to the appointment of an arbitrator and an hourly basis for dealing with any breaches of the terms of the tenancy agreement

Summary

As at 30 September 2013, the additional rental income arising from the 31 completed rent reviews is **£146,219** per annum. With a budget of £50,000 allocated for BCC's costs associated with the reviews, over the three year cycle that the rents will take effect, this results in a net additional income to BCC of **£388,657**.