

CYNGOR SIR POWYS COUNTY COUNCIL

CABINET EXECUTIVE 1 November 2016

REPORT AUTHOR: County Councillor John Powell

SUBJECT: Outcome of condition surveys of the Farm Estate –
impact and consequences

REPORT FOR: Decision

1. Introduction

- 1.1 At its meeting on 27 January 2015, Cabinet approved an additional budget of £110,000 to enable full condition surveys of the entire County Farm Estate (145 properties) to be commissioned in order to provide a full snapshot of its overall condition.
- 1.2 It was agreed to undertake these surveys as there was concern that there had been under-investment in the Estate for several years and the condition of the farm buildings was deteriorating. The Cabinet requested to know the outcome of the surveys. The surveys have now been undertaken and analysed, the findings being summarised in this report. The surveys have revealed a significant health and safety risk to the Council's tenants which will need to be addressed. This report also puts forward a proposal for addressing these issues.

2. Condition Survey Findings and Implications

- 2.1 Over the last 6 years, the County Farm Estate has delivered Capital receipts of £6.28M from sales of property whilst increasing its revenue income during the same period. In line with Council policy the majority of these capital receipts contribute to the overarching Councils Capital Programme, in particular the Schools Modernisation agenda. 10% is retained by the service.
- 2.2 The condition survey work has now been completed and the results of the survey quality-assessed, with data recorded on a comprehensive spreadsheet system. This was not a survey of the farm land but of the buildings and particularly, the farmhouses.
- 2.3 Each building element (e.g. roof, structure, electrical installation, windows & doors etc.) has been assessed and its condition graded according to its remaining useful life and the extent to which, if any, it is in need of urgent remedial work or replacement, by reference to the scoring matrix set out in table 1 below

Table 1.

Condition Priority	Condition Grading
1 Urgent Work	D Life expired - Serious risk
2 Essential work required within 2 years	C Poor - Exhibits major defects
3 Desirable work required within 3-5 years	B Satisfactory - Performing as intended but minor repairs required
4 Long term work outside 5 year period	A Good - Performing as intended and operating efficiently

- 2.4 The total cost of all potential works identified in the survey programme is given as £7.65M. It should however be noted that not all of these works identified are critical with some classed as improvements – e.g. new kitchens, new bathrooms, new heating systems etc. Furthermore tenants are obliged to contribute to a proportion of the cost of certain works which shall have the effect of reducing the Authority’s overall liability.
- 2.5 Urgent electrical works to address defects classified as ‘Danger Present’ or ‘Potentially Dangerous’ under current electrical regulations have been costed at £384,483.
- 2.6 In addition, further critical non-electrical building maintenance work has been costed at £538,582. This includes the replacement of five failed domestic drainage systems and urgent asbestos removal costs. Asbestos roof cladding is present on almost all Farms Estate properties and much of it is now starting to show signs of ‘delamination’, the process by which the material fragments and asbestos fibres are released. In addition to the health and safety risks to property occupiers, the release of asbestos fibres could result in a property being deemed as contaminated with severe implications for property values.
- 2.7 For the financial year 2016/17, the County Farms budget has been increased by £500,000 in order to address the most urgent actions with a priority given to electrical safety, asbestos removal and potential pollution issues to reflect the heightened exposure of the Authority to HSE action or prosecution for associated defects.
- 2.8 As the Cabinet will be aware from previous discussions regarding the Farms Estate, there is a mix of tenancy arrangements in operation. Tenants with leases where the tenant has responsibility for undertaking repairs have been contacted by the Estate Management team. The Estates Management team is ensuring that the tenants undertake works that they are responsible for as swiftly as possible. In some cases the tenants have asked the Council to make the arrangements on their behalf with payments being agreed at the outset. Thus there is a mix of action being undertaken to remedy the current situation.
- 2.9. Whilst the £500,000 made available in 2016/17 will therefore be allocated

according to priority, it is recognised and acknowledged that this approach will still leave works which are designated as urgent not done.

- 2.10 The Condition Survey recommend that works costed at £2.4M are completed to the structure of buildings on the Estate within a 2 year period. Over the same timeframe works to roofs costed at £1.05M have been identified. In some cases the Council will have the opportunity to mitigate its exposure to these liabilities (by not replacing certain worn-out buildings for example or deferring non-critical maintenance work) but the extent of current liabilities plainly exceeds resources available in existing budget allocations.
- 2.11 The potential consequences of a lack of action are many, ranging from the inability of the Estate to attract high quality new entrants if the farms remain inadequately maintained to, in extremis, death and HSE investigations if essential statutory compliance issues such as electrical works are not addressed.
- 2.12 Cabinet is therefore asked to give consideration to the establishment of an annual maintenance revenue budget of at least £500,000 per annum in addition to the existing capital allocations of £100,000 to enable these dangerous maintenance backlogs to be tackled within a reasonable timeframe. These works could be undertaken at a slower pace but this longer time period will then continue to expose the Council to significant risk.

3. Context

- 3.1 Proposals to rationalise the Farm Estate were developed in 2000, when it was agreed that the farm estate needed to become more viable in its own right. Whilst part of that process could be delivered through sales, part of the proposals required investment: initially, to create the impetus for rationalisation, the Farms estate would receive 75% of all capital receipts it generated and thereby drive its own investment.
- 3.2 In 2005 the proportion of retained receipts fell to 60%; in 2009 this percentage was further reduced to only 10%, as greater demands were being placed upon front line services and the need to provide for them – with particular emphasis on the 21st Century Schools Programme.
- 3.3 The reduction in available capital outlined above has understandably had a considerable effect on the ability of the service to address the Landlord liability known to exist in the identified priority areas.
- 3.4 In addition, approximately one-third of all revenue income generated by the Estate supports the overall authority's budget, and is not an additional source of funding that is freely available to ensuring the Estate is adequately maintained to the appropriate standard.
- 3.5 In overall terms, the Estate currently now extends to around 11,400 acres,

but whereas in 2005 it comprised 188 tenancies, there are now 145 let equipped farms with 29 secondary lettings. Of the equipped farms, 87 (60%) are now let under fixed term Farm Business Tenancies with terms of either 8 years (starter farms), or 12 years (progression farms). The remaining farms are let under the older Agriculture Holding Acts legislation where tenants either have “retirement” tenancies (i.e. their tenancies continue until their normal retirement age, subject to suitable retirement accommodation then being available), or “lifetime” tenancies (i.e. generally until the tenant passes away), both of which offer little flexibility to the Landlord.

A summary of key Estate facts is appended to this report.

4. Funding Options

4.1 There are three funding options that could be considered for the County Farm estate.

- Revenue
- Capital Receipts
- Prudential Borrowing

The Council Tax cost of the revenue cost of adding £500k to the FRM is £8.17 per Band D equivalent property or 0.75%.

The cost of using capital receipts reduces the authority’s ability to apply for a Capitalisation Direction. In 2016/17, 2017/18 and 2018/19 the authority will be able to use capital receipts to fund certain revenue costs from Transformation and change. In 2015/16 we were successful in applying for a £1.9m Capitalisation Direction. The second concern is that the 21st century school programme is based on 90% funding from the County Farms. If this is diverted the funding will need to be replaced. The current Band A funding ends in 2018/19.

Prudential Borrowing could be used to fund the County Farms and the cost of £500k funded over a 50 year life would be £16,930 17/18, 17,280 18/19 and 16,630 19/20. The increase in cost reflects the estimated increase in interest charges over the future years. It should be noted that over the length of the loan for the 16/17 borrowing total repayment will be £846,500.

5. One Powys Plan

5.1 Investment in the County Farms Estate accords with the principles of the One Powys Plan by facilitating the provision of properly-equipped, safe and viable farm properties for new entrants to Agriculture to develop and grow businesses in rural communities.

6. Options considered/available

6.1 **Option 1:** Accept the Proposal stated in paragraph 2.12 above, and ensure

that an appropriate annual maintenance budget is established which will enable the Farm Estate to be brought up to a standard which will generate higher revenue income for the Council, and will ensure that the Estate is fit-for-purpose. Surplus properties will continue to be sold in line with the Farm Estate Delivery Plan, providing much needed capital receipts. This option will help to ensure that the Council is better able to comply with its statutory obligations and Landlord maintenance requirements, leading to a reduced likelihood of HSE or court action and enhancing the value of the property asset.

- 6.2 **Option 2:** Maintain the status quo. Realistically, whilst this is an option open to the Council, having paid for the condition surveys to be undertaken, it cannot now be a viable option. To ignore the findings of the commissioned surveys would leave the authority with no defence should any incident occur which would involve HSE or private court action by an injured Tenant.
- 6.3 **Option 3:** To acknowledge the findings of the surveys, but to increase the available revenue budget by a lesser amount per annum, thereby (in the short-term at least) protecting the annual revenue surplus generated by the Estate and made available to corporate funds. Whilst an option to be considered, adoption of this approach will mean that it will take longer to bring the Estate up to an acceptable standard, and the risk of action and injury (due to underinvestment in statutory obligations) will therefore remain for a longer period of time.
- 6.4 **Option 4:** While the Farm Estate serves many purposes, such as assisting new entrants to the industry, Members may wish to review the purpose of holding the estate. Whilst the Farm Estate does have a disposal programme generating on average £1M capital receipts per annum, the rate of sales could be speeded up. This would also diminish the Council's risk.

7. Preferred Choice

- 7.1 The preferred option is Option 1. The Service Area will be able to develop a management plan by which the workstreams identified in the Condition Surveys can be tackled in a logical and meaningful way, ensuring that risk to the Council is kept to a minimum.

8. Sustainability and Environmental Issues/Equalities/Crime and Disorder/Welsh Language/Other Policies, etc.

- 8.1 The preferred option is considered to be the best option to secure future sustainability of the Estate and ensure that the environment is not compromised by the presence of defective drainage and farm waste storage facilities. The proposal has no adverse effects in relation to crime/Welsh language and other policies.

9. Local Members

- 9.1 As the Report affects local members across the whole authority, their views

have not been sought.

10. Support Services (Legal, Finance, Corporate Property, HR, ICT, BPU)

- 10.1 **Property** The Lead Professional Regeneration and Corporate Property comments 'The Farms Estate is carrying a high level of risk for the Council and the scale of this risk is outlined in the report. This risk cannot be ignored and it is a reasonable response for the Cabinet to consider at what speed it can afford to ameliorate the current situation.'
- 10.2 **Legal** "The Professional Lead-Legal recognises that the financial pressures facing the Authority requires a balance between our duties as a Landlord to maintain with particular emphasis on our statutory duties imposed by the Health and Safety at Work etc Act 1974 and the amount of money available to spend in satisfying these legal requirements".
- 10.3 **Finance** The Capital and Financial Planning Accountant suggests that Cabinet considers the funding methods put forward in section 4. The authority is able to consider capital funding for this revenue work because part of the capital programme is funded from revenue reserves. These reserves will be used to fund the County Farms work and the capital funding used to finance the capital work.
- 10.4 The Finance Business Partner for Place notes the contents of the report and comments as follows. Currently there is an annual revenue maintenance budget of £159,030. In addition to the annual revenue budget there is £500,000 as per the Cabinet report for urgent works, £33,817.68 relating to Capital Bid monies from 15/16 and £29,141.15 relating to Condition Surveys from 15/16; these funds are all one off revenue budgets for 2016/17.

11. Corporate Communications:

The Communications Manager comments 'The report is of public interest and requires proactive use of news release and appropriate social media to publicise the decision.'

12. Statutory Officers

- 12.1 The Strategic Director Resources (S151 Officer) comments:

'The comments made by the Capital and Financial Planning Accountant are noted. Any future decision on funding of work on the estate will have an impact on the council's overall revenue budget and Cabinet will also have to assess the level of priority assigned to any request.'

- 12.2 Solicitor and Deputy Monitoring Officer to the Council comments

'I note the legal comment contained within the report and have nothing to

add to the Report.'

13. Members' Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

Recommendation:	Reason for Recommendation:
<p>It is recommended that the Cabinet take into account the Health and Safety needs of the County Farms Estate when setting future Medium Term Financial Strategies and the Council's future capital programme expenditure.</p>	<p>The Council has considerable landlord responsibilities as part of its County Farms Estate and failure to meet these within a reasonable timeframe could result in harm to tenants, increased risk of prosecution to the Council and devaluation of the property asset over time.</p>

Relevant Policy (ies):	Corporate Asset Policy		
Within Policy:	Y	Within Budget:	N

Relevant Local Member(s):	County-wide
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Person(s) To Implement Decision:	David Micah		
Date By When Decision To Be Implemented:	Immediately		

Contact Officer Name:	Tel:	Fax:	Email:
David Micah	01597 826054	-	david.micah@powys.gov.uk

APPENDIX

1. The Estate is presently made up of about 146 farms, smallholdings and cottages spanning some 11,400 acres.
2. Of the holdings, there are 30 'lifetime' tenancies and 18 'retirement' tenancies let under the Agricultural Holdings Act, the remainder being fixed-term or periodic tenancies under the Agricultural Tenancies Act 1995. There are a further 34 bare land/ secondary lettings and 2 cottages, the latter let under secure 'Rent Act' tenancies.
3. Revenue income for the financial year 2015-16 was £1,121,771 against expenditure (before capital charges but including internal corporate charges) of £644,003.
4. Capital receipts for the financial year 2015-2016 was £1,452,600 (with a further number of agreed transactions not yet legally complete of £1,675,000). The property team has an internal target of £1m per annum of capital receipts from the farms estate which will continue for the foreseeable future.
5. The total of all market values reported by DVS in November 2014, and based on a valuation date of 1 April 2013, and on certain provisos*, was £98,573,675. Please note that this value is based on the sum of individual valuations and is not indicative of the value of the estate as a complete portfolio.
6. The value of the estate for accounting purposes, was given as £41,757,375.

* DVS provided separate market valuations for each element of the County Farm Estate on an indicative basis only. In providing these Market Value figures, DVS stated their figures did not take into account of issues such as reducing the service potential, or disruption, or any costs incurred in achieving alternative use (which is a key consideration when providing market values). The figures reported as Market Value were based upon individual local DVS valuers' knowledge of prevailing values in each area, with no formal planning enquiries made or investigations made in respect of market demand, development costs or conversion costs. Such enquiries would be made at the time of any future disposal being proposed.