APPENDIX 2

Learning, Skills and Economy Scrutiny Committee
Scrutiny Observations to Cabinet on: Review of County Farms Policy

Response to Scrutiny Observations

1. The proportion of holdings subject to lifetime tenancies will naturally decrease over time, providing the County Council with an opportunity to re-let more holdings on improved terms. Lifetime tenancies are a product of the statutory tenancy framework pre-1995 and neither the Council nor any other Landlord is in a position to unilaterally bring them to an end.

2. The 2012 Re-letting and Tenancy Renewal policy offers new tenants the prospect of tenure of a Farms Estate Holding for up to 36 years providing they move to a progression farm in that time. The terms offered are designed to encourage progression whilst providing tenants with the necessary security to underpin what may be long-term investment decisions. The appeal of a County Council tenancy to new entrants will be greatly diminished if it is of insufficient duration to permit sustainable business growth and there are no progression opportunities within the Estate- it would be questionable to suggest that a reduction in the length of tenancies offered by the Estate would genuinely support the interests of new entrants.

3. Linked to the above, tenants are required to invest in the property to make it suitable for their occupation (for example it is unusual for an Estate farmhouse to be let with carpets or a fitted kitchen- tenants are generally expected to fund such items). Longer periods of tenancy give the tenant the necessary assurance to invest in necessary infrastructure and equipment.

4. Whilst it is acknowledged that Brexit has introduced significant uncertainty to the farming industry, the implications for the County Farms Estate cannot be accurately evaluated as there remain too many ‘unknowns’. In the meantime competition for lettings remains intense, with tenders showing continued increases in rental values for farm units; there is no evidence to suggest new entrants are being deterred from seeking a Council holding on account of Brexit uncertainty.

5. The figures set out in the 2015 Condition Survey were estimates. Furthermore the liabilities identified by the Condition Survey excluded project management fees (typically 14.5%) and ancillary costs such as ecology surveys.

6. Tender prices have in many cases exceeded the estimated cost of work set out in the Condition Survey. For example the replacement of

12 foul drainage systems has cost £125,829 against a liability identified by the surveys of £63,050.

7. Immediate liabilities are now estimated to be in the region of £4.55m to include provision for fees at 14.5% (£3.8m being the value of outstanding work as per the 2015 Survey figures accounting for building maintenance cost inflation at 1.6%). However, the longer it takes to address these immediate issues, the worse the situation gets, and therefore the higher the cost.

8. The rationalisation programme will continue to yield up surplus property for sale over a period of years. There remain on the Estate a number of properties identified as 'non-core' which may be offered for sale at the appropriate time to optimise value (i.e. at the end of a tenancy when vacant possession can be offered); it is estimated that such sales will, over time, generate capital of £6m, in addition to the value of any 'opportunity sales' that may come forward.

9. Vacant possession of non-core properties may be obtained by offering inducements to sitting tenants to surrender tenancies, thereby allowing sale with vacant possession, but the funding of such inducements is unlikely to be favoured in the present financial climate. The value of the inducement would be subject to negotiation with the tenant.

10. If a target of £1m capital receipts per annum is maintained, non-core property will of necessity have to be sold subject to tenancy which will significantly suppress the value of capital receipts, with the additional sale of core assets likely to make up any shortfall.

11. Maintaining a target of £1m capital receipts per annum will suppress rental income and reduce the contribution made by the Farms Estate to the County Council's wider revenue position where, it is understood, budgetary pressures will most keenly be felt in the short to medium term. For completeness we are further advised by Finance that capital receipts cannot readily be applied to 'transformational projects' (as suggested in LSE Scrutiny Committee observations). The Capital Accountant has stated that "The rules on Capital Receipt is very clear. It can only be used to procure, construct or enhance an asset. In other words, it can only be used on the Capital aspects of the transformational projects''. Therefore, it cannot be used to ease revenue pressures.

    There is a current exception to this so that capital receipts can be used for the revenue element of transformational capital projects- this is very limited in its application i.e. feasibility work (such as surveys and project manager time and ground studies) leading to a capital project.

    We would stress that capital receipts cannot be applied to day to day revenue expenditure and therefore cannot be used towards our savings pressure.

12. The Farms Estate has been allocated £500k from the Corporate budget to address Condition Survey liabilities in 2019/20, in addition to previous allocations. Whilst this will allow the known liability to be reduced it will leave some £4m of outstanding work to be addressed.

13. The options for addressing the balance of liabilities will include:

- the continuing allocation of Corporate funds of £500k per annum (or such enhanced amount to reduce the timeframe for bringing down the liability)
- the retention of a greater proportion of the revenue surplus generated by the Estate for reinvestment in it
- the accelerated sale of non-core assets to realise additional capital which is not favoured for the reasons set out above.

As to the specific recommendations:

Recommendations:

1. **That Cabinet be given the opportunity to consider alternative proposals to the status quo.**

   Response: Developing and fully evaluating alternative proposals would in reality involve a huge piece of work, not least to assess the social, economic and environmental implications of selling off all or some of the estate. There are 140 farms and hence a corresponding number of businesses, homes and families whose immediate futures would be called into question by any proposal to substantially revise existing policy.

   As an immediate consequence of any sales, the Council will lose the trading surplus that the Estate generates- this revenue balance would then have to be found elsewhere adding to the savings burden.

   Marketing the estate in its entirety would distort the market for farmland locally and potentially undermine the prospect of achieving best value.

   A further issue that would arise from the wholesale or substantial disposal of the Estate is the extent to which such a proposal would align with the Authority's obligations under the Wellbeing of Future Generations Act. The proposals set out in the FEDP, being retention and improvement of the asset, would appear a better fit with the requirements of that legislation whilst allowing the Authority to be benefit from the revenue surplus generated by the Estate.

2. **That Cabinet make clear the contribution that County Farms are expected to make to the central capital receipts in the immediate and medium term.**

Response: The danger of increasing this to £1m is discussed in paragraphs 8-11 above. It also has economic, social and environmental impacts.

3. **That Cabinet make clear how the landlord liabilities will be dealt with in a timely manner.**

   Response: The Cabinet has so far allocated £2m over 4 years towards addressing liabilities. We intend to submit a business case to justify the allocation of further budget resource to this programme.

4. **That given the issues raised during pre-cabinet scrutiny the Finance Scrutiny Panel be tasked with undertaking the report agreed at Cabinet on 1st November 2016 (That a further report be drafted for Cabinet in January on the long term financing of the County Farms Estate).**

   Response:
   Following the Cabinet meeting on 1/11/2016 the Head of Finance confirmed that it would be inappropriate for the Farms Estate to be asked to “self-finance” as finance of departments is dealt with corporately. If this is re-visited then it may present opportunities for the Farms Estate to retain the capital receipts and surplus revenue which it generates. As it stands, the corporate centre takes the capital receipts, with the service given 10% for reinvestment. Similarly the revenue generated covers the farms estate running cost (to include a budget to address reactive maintenance) with the surplus available to address any revenue shortfall within other services. Current regular budget allocations have proven insufficient to maintain and improve the Estate and hence the maintenance backlog has arisen.

5. **That the Policy is revised to ensure that the objectives of supporting new entrants is achieved.**

   Response: We feel that this is achieved within an agricultural context and where the constraint of statutory lifetime tenure is recognised. See paragraphs 1-3 above.