

Central Bedfordshire Council

Executive

12 June 2018

Farm Estate Plan

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This report relates to a decision that is Key

Purpose of this report

1. To present the draft Farms Estate Plan and to seek approval from Executive.

RECOMMENDATIONS

The Executive is asked to:

1. approve the draft Farms Estate Plan; and
2. approve commencing a public consultation on the draft Farms Estate Plan.

Overview and Scrutiny Comments/Recommendations

2. Verbal updates were provided to the Corporate Resources Overview and Scrutiny Committee on the 27 July 2017 and 22 March 2018. This report will be reviewed by the Corporate Resources Overview and Scrutiny Committee on the 31 May 2018 and comments from the Committee will be circulated.

Issues

3. There is no current Farms Estate plan, and Central Bedfordshire Council has not held one since its formation. There is no strategy detailing the Council's ambitions for its Farm Estate. For example, why retain farms, what size they should be, how many farms is optimal to hold etc to direct work so the Council can be effective in managing, maintaining, acquiring and disposing of farms.

Options

4. Options considered when drafting the plan included:

- a. Outright sale – sale of whole estate in a single offering in lots to the open market. Including all houses, cottages, buildings and non-agricultural part of the estate, income projected is c£62M (sales would be subject to future development clawback clauses).

Reasons discounted:

Loss of annual income of c£900k pa, loss of influence over the countryside, recreational opportunities, environmental control, ability to influence development.

- b. Phased sale – retain only the land that enables influence over development. Sell the remaining land holding by holding at the optimum time to maximise receipts with vacant possession when tenancies come to an end.

Reasons discounted:

Loss of majority of current c£900k pa income, greatly reduced estate over time losing significant influence over the countryside, providing recreational opportunities and exercising environmental control. Any further ability to influence development would be lost. Estate would fall well below what is considered a minimum viability level of 2000 ha.

- c. Retention and rationalisation – reduce and simplify the number of holdings. Dispose of land at optimum time to achieve strong capital receipts without replacing land sold.

Reasons discounted:

Estate is already slightly below the viability level at 1900 ha, meaning the management cost of holding the estate is proportionally higher as land is sold off, and provides less opportunity and flexibility to both the Council and tenants to create suitable holdings.

- d. Retention and proactive management – retaining land to meet wider Council objectives and generate revenue income, through fewer but larger holdings, with a diversified mix of farming.

Reason recommended:

Proactive management of an estate retained at a viable size, with acquisition of land as required to achieve this will ensure the Council meets the priorities set out below and provide an improved framework to meet the challenges and opportunities within the rural economy over the next 10 years.

Reason/s for decision

5. To enable the Council to adopt a plan that directs how the Council will manage its Farms Estate.

Council Priorities

6. The draft Farms Estates plan outlines how holding Farms Estate can provide greater access to the Countryside for residents; can provide more control over the pace and type of development that takes place to meet local housing and employment needs; contributes to the supply of minerals to meet national and regional supply, and local development needs; provides greater influence and control over the environment; and provides the Council with a source of income.

Corporate Implications

Legal Implications

7. Section 120 of the Local Government Act 1972 ('LGA') permits the Council to acquire land for any of their statutory functions, or for the benefit, improvement or development of their area, and the land may lie within the boundary of another authority.
8. Section 123 LGA permits the Council to dispose of any of their land as they choose but, except in the case of a short tenancy, the consent of the Secretary of State is required if it is intended to dispose of land at less than the best consideration that can reasonably be obtained. A failure to obtain ministerial consent under this section (or under s.32(2), Housing Act 1985) may make an agreement for the disposal of land ultra vires. If the land is open space within the meaning of the Town and Country Planning Act, the disposal is subject to the requirements in subs.123(2A).
9. The draft Plan refers to lettings being made up of 15 Agricultural Holdings Act agreements, 42 farm Business Tenancies and 7 other agreements. Each tenant will have certain protections set out in their written tenancy agreement (if there is one) and implied by statute. If and when the Plan is adopted officers will need to take into account the individual tenants contractual and implied statutory rights when implementing the Plan insofar as it affects an individual tenant.
10. With regard to the proposed public consultation there is no general obligation at common law to consult. The obligation will arise either as a result of express statutory requirement or as a result of a legitimate expectation. In this case the consultation is non-statutory.

11. Once a decision is taken to consult the obligation to consult comprises the following:
12. The essence of the exercise is the communication of a genuine invitation to the consulted body to give advice, and a genuine receipt of that advice by the consulting body, at a time when proposals are still at their formative stage.
13. Accordingly, the duty of consultation requires the provision to the consulted body of sufficient information to enable it to consider the proposals intelligently and to tender an intelligent response, or helpful advice, in sufficient time for it to do so.
14. There must then be sufficient time for the product of consultation to be taken into account before reaching the relevant decision.

Financial and Risk Implications

15. This paper is seeking authorisation to start a public consultation. There are no specific financial implications arising at present.
16. The Farms Estate has delivered £50M gross of capital receipts from land sales over the last five years. The Council has a target in the MTFP to deliver a further £10M, £10M, £8M and £8M from all CBC estate over the next four years.
17. The Council made provision for £8M of capital to be available of which £7.870M remains for the acquisition of land to replenish Council Farms Estate that has been disposed of.
18. If additional works on the Farms Estate are required over and above the existing capital budget then a proposal for increasing this will be submitted as part of the Medium Term Financial Plan (MTFP) process.
19. The proposed approach to move to a smaller number of holdings of a larger size with more proactive management should reduce the risk of bad debt.
20. It should be noted that Central Bedfordshire Council and Bedford Borough Council entered a Disaggregation Agreement from the 1st of April 2009 to 2030 which apportions of net rental income and net capital receipts from identified disposals 63% to Central Bedfordshire Council and 37% to Bedford Borough Council. From 2030 to 2050 Central Bedfordshire Council's proportion increases incrementally over time to 81.5% with a corresponding reduction to Bedford Borough Council. From 2050, Central Bedfordshire Council will receive 100%.

Equalities Implications

21. Central Bedfordshire Council has a statutory duty to promote equality of opportunity, eliminate unlawful discrimination, harassment and victimisation and foster good relations in respect of nine protected characteristics; age disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
22. Through the consultation the extent to which there are any potential equality implications arising from the proposals will be identified.

Conclusion and next Steps

23. It is requested that the Executive Committee approves starting an eight-week public consultation on the draft Farms Estate plan as presented. The consultation will be published through the Councils consultation webpages and consultation meetings will be arranged with key stakeholders during this period.
24. The outcome of the consultation will be presented back to Executive Committee in October 2018 for consideration and adoption.

Appendices

Appendix A: Farms Estate Plan

Background Papers

None